GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

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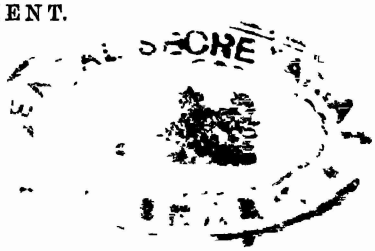

THE

# CENTRAL PROVINCES CODE:

CONSISTING OF THE

## BENGAL REGULATIONS

AND

## LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE CENTRAL PROVINCES.

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# PREFACE.

THIS, the Central Provinces Code, is published under the authority of the Government of India, and contains, first, the unrepealed Bengal Regulations in force in the Central Provinces as modified by the Central Provinces Laws Act, 1875; and, secondly, the unrepealed local Acts of the Governor General in Council in force in those Provinces. An Appendix contains the local rent-law (Acts X of 1859, XIV of 1863[a] and XXII of 1872), which will be repealed by the Central Provinces Tenancy Bill, now before the Legislative Council.

The Regulations printed in the first part of the present volume are taken from Clarke's edition of the Bengal Regulations published in 1854, under the authority of the Court of Directors of the East India Company, and the local Acts from the official copies of the Acts of the Supreme Council preserved in the Legislative Department.

The only changes made in reprinting are the following:—

(*a*). Repealed portions of Regulations and Acts have been omitted.

(*b*). Where an Act directs that a section, a clause or words be inserted in a former Regulation or Act, in reprinting the former Regulation or Act, the insertion has been made.

(*c*). Where one Regulation or Act refers to another, and such reference is directed by a subsequent Act to be read as if made to the latter Act, the number, year and title of the latter Act have, as a rule, been substituted in the text.

(*d*). Arabic numerals have been substituted for the Roman numerals used in the Regulations and the earlier Acts to denote the section-numbers.

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[a] This Act is incorporated (see section 18) in Act X of 1859, and, though repealed by Act XII of 1876, that repeal does not operate in the Central Provinces, in consequence of the proviso in the last-mentioned enactment.

(*e*). Words belonging to oriental languages have been uniformly spelt.

(*f*). Lengthy sections have sometimes been divided into clauses and paragraphs.

The Registrar, Legislative Department, is responsible for the correct printing of unaltered matter.

W. S.

SIMLA,
*The 18th July, 1881.*

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# THE CENTRAL PROVINCES CODE.

## PART I:

## THE BENGAL REGULATIONS IN FORCE IN THE CENTRAL PROVINCES.[a]

### REGULATION I OF 1798.

*Passed on the 9th of January, 1798.*

A Regulation to prevent fraud and injustice in conditional sales of land under deeds of bai-bil-wafa, or other deeds of the same nature.[b]

Preamble.

1. It has been long a prevalent practice in the Province of Bihár to borrow money on the mortgage and conditional sale of landed property, under a stipulation that if the sum borrowed be not repaid (with or without interest) by a fixed period, the sale shall become absolute.

This species of transfer has, in the above Province, been usually denominated bai-bil-wafa; and the same transaction is common in Bengal, under an instrument termed katkabála.

It doubtless exists, also, under deeds of the above or similar denominations, in Orissa and Benares: and since the promulgation of the rules respecting interest contained in Regulation XV. 1793,[c] it has become more prevalent; particularly in the Province of Bihár, wherein instances have occurred in which persons lending money on bai-bil-wafa, in order to render the sale absolute, and thereby possess themselves of the landed property of the borrower, have

[a] For the Scheduled Districts in the Central Provinces, see Act No. XIV of 1874, Schedule I, Part VI.

[b] See sections 7 and 8, Regulation XVII of 1806, *infra*. The functions of "the Díwání Adálat" are discharged by the "District Court" as defined in section 3, Act No. XIV of 1865: see *infra*, Act No. XX of 1875, section 3 and schedule.

[c] Repealed by Act No. VIII of 1868.

denied the tender or evaded receiving payment of the money due to them within the period limited for the discharge of it.

In such cases, the proof of the tender falls on the borrower; and if he fail in the proof of it for want of legal evidence, he is liable to lose his estate.

It is necessary, therefore, for the security of the borrower, in such transactions, that he should have the means of establishing before a Court of Judicature his having tendered, or being ready to pay, within the stipulated period, the amount due from him to the lender; who, if he mean to act fairly, will also derive a benefit from a clear rule being laid down, whereby it may be readily ascertained whether the borrower was willing to redeem his property by the payment of the money lent upon it within the period agreed upon between the parties, or whether, from his having omitted to perform the conditions of such redemption, the sale is become absolute and the property included therein finally transferred to the lender.

For the above purpose, and for the prevention of other abuses in the transactions referred to, the Governor General in Council has passed the following rules, to be considered in force in the Provinces of Bengal, Bihár, Orissa and Benares, from the date of the receipt of this Regulation by the several Courts respectively.

Procedure for borrower of money on conditional sale of land, who desires to redeem it by paying money lent.

2. In all instances of the loan of money on bai-bil-wafa, or on the conditional sale of landed property, as explained in the preamble to this Regulation, however denominated, the borrower, who may be desirous to redeem his land by the payment of the money lent upon it, with any interest due thereon, within the stipulated period, is at liberty, on or before the date stipulated, either to tender and pay to the lender the amount due to him, taking such precautions as he may think necessary to establish such tender and payment, if evaded or denied, or without any tender to the lender, to deposit the amount due to him, on or before the stipulated date, in the Díwání Adálat of the city or zila in which the land may be situated; and the Judge receiving the same shall furnish the party with a written receipt for the amount, specifying on what date, and for what purpose, such deposit may have been made.

He shall also, at the same time, cause a written notice of such deposit to be delivered to the lender; and on the application of the latter, and his surrender of the conditional bill of sale, or showing satisfactory cause why it cannot be surrendered, shall pay him the amount deposited, and take his acknowledgment, to remain among the records of the Court.

That there may be no doubt to what amount the deposit in question is to be made, it is required to be as follows:—

When the lender has not obtained possession of the lands, the deposit is to be the principal sum lent, with the stipulated interest thereon, not exceeding

the legal rate of twelve per cent. per annum; or if interest be payable and no rate has been stipulated, with interest at the established rate of twelve per cent.; but if the lender has held possession of the land, the principal sum borrowed only need be deposited, leaving the interest to be settled on an adjustment of the lender's receipts and disbursements during the period he has been in possession.

In either case, a deposit, made as above required, shall be considered to preserve to the borrower his full right of redemption; and if the land be in the possession of the lender, shall entitle him to demand the immediate recovery thereof, subject to the adjustment of accounts specified in the following section:

Provided, however, that if the borrower in any case shall deposit a less sum than above required, alleging that the sum so deposited is the total amount due to the lender for principal and interest, after deducting the proceeds of the lands in his possession, or otherwise, such deposit shall be received, and notice given to the lender as above directed; and if the amount so deposited be admitted by the lender, or be established, on investigation, to be the total amount due to him, the right of redemption shall be considered to have been fully preserved to the borrower, who will not, however, in such cases, be entitled to the recovery of his lands, until it be admitted or established that he has paid the full amount due from him.

When lender has possessed land, and adjustment of accounts is necessary, he is to account for proceeds of estate.

3. In all instances wherein the lender on a bai-bil-wafa, or similar conditional sale, may have been put in possession of the land, and an adjustment of accounts may consequently become necessary between him and the borrower, the lender is to account to the borrower for the proceeds of the estate whilst in his possession, on the principles prescribed with regard to mortgages and interest in Regulation XV. 1793,[a] as far as the same may be applicable to the nature of the case.

But such part of section 10 of the above Regulation as directs that the mortgages therein referred to are to be considered as cancelled and redeemed, whenever the principal sum, with the simple interest due upon it, shall have been realized from the usufruct of the mortgaged property, or otherwise liquidated by the mortgagee, being inapplicable to the conditional sales referred to in this Regulation, it is hereby declared not to apply thereto.

Típs not to be considered legal tender unless accepted by lender.

4. A típ for the repayment of money lent on the conditional sales referred to in this Regulation shall not be considered a legal tender, unless accepted as such by the lender; the proof of which acceptance shall be the lender's giving up the bill of sale, or giving a written acknowledgment that he has received back the money lent by him.

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[a] Repealed by Act No. VIII of 1868.

Regulation not to alter contract between parties.

5. Nothing in this Regulation being intended to alter the terms of contract settled between the parties in the transactions to which it refers (illegal interest excepted), the several provisions in it are to be construed accordingly; and any question of right between the parties is to be regularly brought before and determined by the Courts of Civil Justice.

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## REGULATION V OF 1799.

*Passed on the 3rd of May, 1799.*

A Regulation to limit the interference of the Zila and City Courts of Díwání Adálat in the execution of wills and administration to the estates of persons dying intestate.[a]

If there be more heirs than one to estate of intestate.

4. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir;

but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or in default of such security being given within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants who may be able to give such security, declaring at the same time, that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs, who may, on investigation, be found entitled to succeed thereto.

In what cases Judge may appoint administrator for care and management of estate of intestate.

5. In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former

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a The functions of the Court of "Sadr Díwání Adálat" are performed by the Judicial Commissioner: see *infra*, Act No. XX of 1875, section 3 and schedule.

case, the suit depending between the several claimants shall have been determined, or in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.[a]

Security to be taken from, and allowances paid to, administrators.

6. In all instances of an administrator being appointed under this Regulation, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a sum proportionate to the extent thereof; and the Judge appointing him is authorized to fix for him (subject to the approbation of the Court of Sadr Díwání Adálat, to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon, after deducting the expenses of management.[b]

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## REGULATION X OF 1804.

*Passed on the 14th of December, 1804.*

### A Regulation for declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-martial.[c]

Preamble.

1. WHEREAS, during wars in which the British Government has been engaged against certain of the Native Powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government;

and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the government of the Presidency of Fort William, the Governor General in Council should declare and establish martial-law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of

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a, b Modified by Regulation V of 1827, *infra*.

c The portion repealed by Act No. XVI of 1874 has been omitted.

persons owing allegiance to the British Government who may be taken in arms in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified;

the following Regulation has been enacted by the Governor General in Council, to be in force throughout the British territories immediately subject to the government of the Presidency of Fort William, from the date of its promulgation.

Power in time of war to suspend functions of ordinary criminal Courts, and establish martial-law;

2. The Governor General in Council is hereby declared to be empowered to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary criminal Courts of Judicature, within any zila, district, city or other place, within any part of the British territories subject to the government of the Presidency of Fort William, and to establish martial-law therein, for any period of time while the British Government in India shall be engaged in war with any Native or other Power, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid;

and to direct immediate trial by Courts-martial of lieges offending against Regulation.

and also to direct the immediate trial, by Courts-martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

Lieges convicted by Court-martial of crime specified in section 2 liable to immediate punishment of death;

3. It is hereby further declared, that any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding section and who shall be convicted thereof by the sentence of a Court-martial, during the suspension of the functions of the ordinary criminal Courts of Judicature and the establishment of the martial-law, shall be liable to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead.

and to forfeiture of property.

All persons who shall, in such cases, be adjudged by a Court-martial to be guilty of any of the crimes specified in this Regulation, shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories, at the time when the crime of which they may be convicted shall have been committed.

4. The Governor General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature, instead of causing such persons to be tried by Courts-martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

Governor General not precluded from causing persons charged with offences to be tried by ordinary Courts.

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## REGULATION XI OF 1806.

*Passed on the 3rd of July, 1806.*

A Regulation for facilitating the progress of detachments of troops through the Company's territories; for affording any requisite assistance to persons travelling through those territories; and for extending the rules contained in sections 68 and 72, Regulation XXII. 1795, in clauses fifth and sixth, section 14, Regulation VIII. 1805, and in section 31 of that Regulation, to the whole of the Company's Provinces subject to the immediate government of the Presidency of Fort William; for the guidance of the civil officers in applying for guards from the regular battalions; and for modifying the rule contained in clause first, section 12, Regulation I. 1804.[a]

2. Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of the Company's territories, the commanding officer of such detachment or corps is required to give the earliest practicable notice to the Collectors of the Revenue of the zilas through which the troops are to pass, of the probable time of their arrival within such districts respectively; together with information of the probable period of their arrival at the particular places where supplies may be required, and a specification of the supplies which will be wanted.

Notice to be given to Collectors and Magistrates, by officers commanding detachments.

The commanding officer will likewise notify to the Collectors the probable period of the arrival of the troops at the rivers or nálás intersecting their march, where boats or temporary bridges may be necessary for crossing the

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a Repealed as to coolies, Beng. Regulation III of 1820. The sections of this Regulation extended to the Central Provinces are so extended with the exception of such part as authorizes Collectors and their Native officers, or Magistrates and their Police-officers, to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of travellers: see *infra*, Act No. XX of 1875, section 3 and schedule. The powers of the "Governor General in Council" and of the "Board of Revenue" are exercised by the Chief Commissioner: see *infra*, Act No. XX of 1875, section 3 and schedule.

troops and the baggage attached to them. The commanding officer will at the same time communicate to the Magistrates of the zilas through which the troops are to pass the probable time of the arrival of the troops within their respective jurisdictions.

Procedure of Collector on notice.

3. *First.*—On receiving the notification mentioned in the foregoing section, the Collector shall immediately issue the necessary orders to the landholders, farmers, tahsíldárs or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nálás as may intersect their march, without any impediment or delay.

The Collector shall at the same time depute a creditable Native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops.

It shall also be the duty of such Native officer to provide the troops with whatever bearers, *coolies*, boatmen, carts and bullocks as may be indispensably necessary to enable the troops to prosecute their route.

Police to assist in providing bearers, boatmen, carts and bullocks.

Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest Police-officer, who is directed to afford his aid in providing the number of persons, and of carts and bullocks, required.[a]

Rates for supplies furnished to troops.

*Second.*—The supplies furnished under the foregoing clause (including earthen pots, firewood and every article of supply) shall be paid for by the persons receiving the same at the current bázár prices of the place at which they may be provided;

Commanding officers to inquire into, and redress, complaints against persons under their command.

and all officers commanding detachments of troops or single corps marching through any part of the Company's territories are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies or in their behalf, against any person or persons under their command, and to afford such redress to the complainants as the nature of the case may appear to require.

Certificate to be granted by commanding officer when troops are provided with boats, &c.

4. *First.*—Whenever a detachment of troops or a single corps shall be provided with boats, temporary bridges or other accommodations, by any landholder, farmer, tahsíldár or other person, conformably to the orders of the Collector of the zila, for the purpose of crossing the troops and their baggage over rivers or nálás, the commanding officer of such detachment or corps will grant a certificate to the person furnishing the same, specifying the number of boats

[a] See Reg. VI of 1825, *infra*.

and persons employed, the burthen of each boat, and how long employed on the public service.

In instances in which temporary bridges may be constructed for the above purpose, the certificate to be granted by the commanding officer is to specify, generally, the dimensions of the bridges and the materials of which they may be composed.

*Second.*—The certificate mentioned in the foregoing clause shall be immediately transmitted to the Collector of the zila by the person receiving it, accompanied by a detailed account of the expense incurred for the purposes therein specified.

Certificate to be sent to Collector with account.

The Collector shall without delay communicate the particulars of the account to the officer commanding the detachment or corps on whose account the expense may have been incurred, who shall certify generally thereon whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges.

Account to be sent by Collector to commanding officer. Endorsement by commanding officer.

*Third.*—When the account above-mentioned shall be returned to the Collector, he shall certify whether the sums and rates charged in it are in his opinion reasonable and conformable to the usual rates of labour and hire in the zila; and shall transmit the account, with the vouchers and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the Governor General in Council.

Account and vouchers to be sent by Collector with his report to Governor General.

After the account shall have undergone the examination and report prescribed for all military contingent charges, the Governor General in Council will pass such final order as may appear proper.

In the meantime the Collector is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the landholder, farmer or other person entitled thereto; inserting the amount so disbursed by him at the foot of his treasury-account, in explanation of his treasury-balance, in the mode prescribed for similar cases.

Collector may pay charge if reasonable.

5. *First.*—Whenever a proprietor, farmer, tenant or manager of land through which any detachment or corps of the Company's troops may march, or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained; when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

Procedure for landholders, &c., sustaining injury, from march or encampment.

Certificate by commanding officer.

*Second.*—If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty

Certificate with statement of claim

to be presented to Collector within ten days.

to present the statement of his claim, with the commanding officer's certificate thereon, to the Collector of the zila (either in person or by his vakíl) within ten days from the date of the certificate; but no claim of this description shall be received by the Collector after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

The Collector, on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded; and shall report his proceedings to the Board of Revenue, accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

It is however declared that no claim will be received, unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed; excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate.

In such cases, if the Collector shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

Procedure by Magistrates on receiving notice mentioned in section 2.

6. Immediately on receiving the notification mentioned in section 2, the Magistrate shall transmit orders to the several Police-dároghas, or other local officers of the Police through whose jurisdiction the troops are to pass, to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions; and to co-operate, as far as necessary, with the person deputed on the part of the Collector in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.

Police empowered, in cases of necessity, to assist travellers in prosecuting their route.

8. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or Native) not restricted by Government from passing through the country, may be proceeding within any part of the Company's Provinces, either on the public service or on his private affairs, and shall be in need of assistance during his route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of Police, to aid him in providing any requisite bearers, boatmen, carts or bullocks, or any necessary supplies of provisions or other articles.

Assistance

On receiving an application of the above nature, the Police-officer to whom

it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons; provided that a sufficient number of persons who have been accustomed to act as bearers or boatmen, or the requisite number of carts and bullocks not exclusively appropriated to the purposes of agriculture and occasionally let for hire, can be procured within his jurisdiction. how afforded.

But all Police-officers are strictly forbidden, under pain of dismission from office, on applications of the above nature, to compel any persons not accustomed to act as bearers or boatmen to serve on such occasions, or to furnish a traveller, or cause him to be furnished, with bullocks or carts kept for private use and not for hire, or exclusively appropriated to the purposes of agriculture. Persons and carts and bullocks not to be employed in furnishing assistance.

Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first Police-station in the next zila through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons. Persons employed to be at liberty to return from first Police-station.

The Police-officers are further enjoined to be careful that a proper compensation for the bearers, boatmen, carts or bullocks employed, and a just price for the provisions or other articles provided, be secured to the persons entitled thereto. Conditions of assistance to travellers.

For this purpose, the Police-officers are authorized to adjust the rate of hire to be paid for the bearers, boatmen, carts or bullocks required, and the price of any articles provided; as well as to demand that the whole or a part, according to the circumstances of the case, be paid in advance.

Should any traveller refuse to comply with the adjustment or demand so made by a Police-officer, he will not be entitled to any assistance from the officers of Government under this Regulation.

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## REGULATION XVII OF 1806.

*Passed on the 11th of September, 1806.*

A Regulation for extending to the Province of Benares the rates of interest on future loans, and provisions relative thereto, contained in Regulation XV. 1793; also for a general extension of the period fixed by Regulations I. 1798 and XXXIV. 1803, for the redemption of mortgages and conditional sales of land, under deeds of bai-bil-wafa, katkabála or other similar designation.[a]

7. In addition to the provisions made in the Provinces of Bengal, Bihár, What shall

[a] The functions of the "Zila or City Court of Diwání Adálat" are discharged by the "District Court" as defined in section 3, Act No. XIV of 1865: see *infra*, Act No. XX of 1875, section 3 and schedule.

entitle mortgagor or his representative to redeem before final foreclosure, after application by mortgagee for foreclosure.

Orissa and Benares, by Regulation I. 1798,[a] and in the Ceded and Conquered Provinces by Regulation XXXIV. 1803,[b] for the redemption of mortgages and conditional sales of land, under deeds of bai-bil-wafa, katkabála or any similar designation, it is hereby provided, that when the mortgagee may have obtained possession of the land on execution of the mortgage-deed, or at any time before a final foreclosure of the mortgage, the payment or established tender of the sum lent under any such deed of mortgage and conditional sale, or of the balance due, if any part of the principal amount shall have been discharged, or, when the mortgagee may not have been put in possession of the mortgaged property, the payment or established tender of the principal sum lent, with any interest due thereupon, shall entitle the mortgagor and owner of such property, or his legal representative, to the redemption of his property, before the mortgage is finally foreclosed in the manner provided for by the following section ; that is to say, at any time within one year (Bengal, Faslí or Wiláiyati, according to the era current where the mortgage may take place) from and after the application of the mortgagee to the Zila or City Court of Díwání Adálat for foreclosing the mortgage and rendering the sale conclusive, in conformity with section 8 of this Regulation :

Provided that such payment or tender be clearly proved to have been made to the lender and mortgagee or his legal representative ; or that the amount due be deposited, within the time above specified, in the Díwání Adálat of the zila or city in which the mortgaged property may be situated, as allowed for the security of the borrower and mortgagor, in such cases, by section 2, Regulation I. 1798,[c] and section 12, Regulation XXXIV. 1803,[d] the whole of the provisions contained in which sections, as applied therein to the stipulated period of redemption, are declared to be equally applicable to the extended period of one year, granted for an equitable right of redemption by this Regulation.

Procedure for mortgagee or conditional vendee desirous to foreclose mortgage or render conditional sale absolute.

8. Whenever the receiver or holder of a deed of mortgage and conditional sale, such as is described in the preamble and preceding sections of this Regulation, may be desirous of foreclosing the mortgage and rendering the sale conclusive on the expiration of the stipulated period, or at any time subsequent before the sum lent is repaid, he shall (after demanding payment from the borrower or his representative) apply for that purpose by a written petition, to be presented by himself, or by one of the authorized vakíls of the Court, to the Judge of the zila or city in which the mortgaged land or other property may be situated.

The Judge, on receiving such written application, shall cause the mort-

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a, c See *supra* p. 1. b, d Repealed by Act No. XV of 1874.

gagor or his legal representative to be furnished, as soon as possible, with a copy of it; and shall at the same time notify to him, by a parwána under his seal and official signature, that if he shall not redeem the property mortgaged in the manner provided for by the foregoing section, within one year from the date of the notification, the mortgage will be finally foreclosed and the conditional sale will become conclusive.

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## REGULATION XX OF 1810.

*Passed on the 29th of December, 1810.*

A Regulation for subjecting persons attached to the military establishments to Martial-law in certain cases, and for the better government of the retainers and dependents of the Army receiving public pay on fixed establishments, and of persons seeking a livelihood by supplying the troops in garrison, cantonment and station military bázárs, or attached to bázárs of corps.[a]

4. Menial servants of officers within the precincts of any cantonment, garrison or military station or military bázár, although they shall not be in the receipt of public pay, shall at all times be subject to all such Regulations as shall be made by the commanding officer or other competent authority, for the maintenance of good order in such cantonment, garrison, station or bázár, and shall be liable to be tried by a Native Court-martial for any breach thereof.

Menial servants of officers, liable to trial by Courts-martial.

7. The names of all persons having houses, shops or other buildings or fixed places within the limits of the garrison, cantonment or station, in which they carry on trade, or otherwise seek a livelihood by supplying or serving the troops, shall be entered in a register to be kept in the office of the Brigade-Major or other station-staff-officer, and to be open to inspection at all reasonable hours.

Names of residents within cantonments, &c., to be registered in office of Brigade-Major or other officer.

The name of each person shall be entered both in English and in the language and character commonly used in the district in which the station is situated, and the occupation of the person written opposite to it, in like manner, with the place of his residence and the date of the registration.

8. No person shall be registered as attached to the station-bázár without his free consent, and any person so registered shall be entitled at any time to demand his discharge from the registry.

Rules as to registered persons.

Persons registered shall be entitled to the privileges of registry so long

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[a] See Act No. XI of 1841.

only as they continue to carry on trade or other employment relating to the supply or service of the troops, at some house, shop or fixed place within the limits above-mentioned, and shall be subject during such time to all regulations made by the commanding officer or other competent authority, for the maintenance of good order and fair dealing in the station-bázár, and shall be liable to be tried by a Native Court-martial for any breach thereof.

Persons attached to bázárs of corps to be registered in book kept at head-quarters.

**9.** The names of all persons attached to bázárs of corps shall, in like manner, be registered in a book, which shall be kept at the head-quarters of the corps, and shall be open to inspection at all reasonable hours ; the entries shall be made in the same manner, in all respects, as those in the registers of station-bázárs.

Rules as to such persons.

**10.** No person shall be registered as attached to the bázár of a corps without his free consent, and any person so registered shall be entitled at any time to require his discharge; except when the corps is on actual service, or there is an immediate prospect of its being ordered to march, in which cases it shall be in the discretion of the commanding officer to withhold such discharge so long only as the immediate exigency of the public service requires.

Persons entitled to privileges of registry.

**11.** No person registered as attached to the bázár of a corps shall be entitled to any of the privileges of such registry, except those who ordinarily carry on the trade or employment in respect of which they are registered, within the place allotted or commonly used for the bázár of the corps when it is stationary.

Registered persons liable to local regulations.

**12.** All persons registered as attached to bázárs of corps shall, while they continue so attached, be subject to such regulations as shall be made by the commanding officer or other competent authority, for the maintenance of good order and fair dealing in the bázár, and for the prompt and efficient execution of such services as belong to their respective occupations.

Execution of process of arrest, civil or criminal, within military stations.

**19.** In all cases in which it may be necessary to execute any process of arrest, criminal or civil, within the limits of a garrison, cantonment, military station or military bázár (the process of the Supreme Court only excepted), the officers intrusted with the execution of such process of arrest shall in the first instance carry the same to the commanding officer, or if he shall happen to be absent, to the senior officer actually present in the garrison, cantonment or station ;

and the commanding officer, or such senior officer, upon such process being produced to him, shall back the same with his signature and shall forthwith use his utmost endeavours to cause the person or persons named in such process to be discovered, and if within the limits of the garrison, cantonment, station or bázár, to be arrested and delivered according to the exigency of the process, to the civil officer charged with the execution thereof ;

Rule not to

but nothing herein contained is to be construed to prevent the service by

the civil officer, in the usual way, of summonses, subpœnas or other process of mere citation without arrest.[a]

extend to service of process short of arrest.

26. Nothing in this Regulation is to be construed to give any authority to commanding officers to dispossess proprietors of land or houses which may be situated within the limits of military bázárs, although such persons shall refuse to be registered as attached to the bázár, or shall have lost, or forfeited, or resigned their privilege of registry.

Commanding officers not to dispossess proprietors of land or houses within military bázárs.

In all cases in which the ground allotted to those bázárs, or any part of it, is the property of Government, and the occupation of individuals has been declared by Government merely permissive, the commanding officer is empowered to make such general regulations as he may think fit (subject to the approbation of the Governor General in Council) respecting the tenure or occupation of houses, shops or other fixed places situated upon such ground as belongs to Government; which regulations shall in all cases be reduced to writing, and shall, after receiving the approbation of the Governor General in Council, be published in station-orders, with a translation in the language commonly used in the district; and the same shall not be of force until fourteen days after they shall have been so published within the limits of the station-bázár.

Rules as to lands the property of Government within those bázárs.

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## REGULATION XI OF 1812.

*Passed on the 18th of July, 1812.*

A Regulation to empower the Governor General in Council to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.[b]

1. WHEREAS considerable bodies of persons, being Natives of Arakan and ordinarily denominated Muggs, have from time to time emigrated from that

Preamble.

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a So much of this section as relates to civil process was repealed by Act No. X of 1877.

b The powers of the "Nizámat Adálat" are exercised by the Judicial Commissioner: see *infra*, Act No. XX of 1875, section 3 and schedule.

country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier;

and whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances and even levied war in the country of Arakan against the Government of Ava, of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations of amity which subsist between the British Government and the Government of Ava;

and whereas it is, in consequence, necessary that the Governor General in Council should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens, or their descendants, from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons, or any other individuals being Natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated;

and whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences, the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William.

Power to order removal of emigrants to parts of country deemed convenient.

2. Whenever the Governor General in Council, upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the Governor General in Council to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence.

In like manner, it shall be competent to the Governor General in Council to order such removal, whenever he may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that State and the British Government.

Emigrants allowed to dispose of property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper:

Provided, however, that if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the Governor General in Council to order such property to be sold by public auction under the superintendence of the Collector of the district.

In that case, the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

Power to order leaders or other emigrants to be apprehended and kept under restraint.

4. In cases in which the Governor General in Council may, on due inquiry and matured deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the Governor General in Council to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time, as may be deemed by the Governor General in Council necessary for the public good.

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated.

5. *First.*—Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence, and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

Punishment for persons siding or assisting in attempts to excite such disturbances.

*Second.*—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence, and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years;

Proviso.

provided, however, that if the Judge by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial to the Nizámat Adálat, who will recommend to the Governor General in Council such alleviation of the prescribed punishment as they may judge proper;

provided, moreover, that no sentence or order which may be passed on the

trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the Governor General in Council from the exercise of the power vested in the Government by section 4 of the said Regulation.

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## REGULATION III OF 1818.

*Passed on the 7th of April, 1818.*

## A Regulation for the confinement of State Prisoners.[a]

Preamble.

1. WHEREAS reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint, individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper;

and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamíndárs, taluqdárs and others situated within the territories dependent on the Presidency of Fort William, should be attached

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[a] See Acts No. XXXIV of 1850 and No. III of 1858. The portions repealed by Act No XVI of 1874 have been omitted.

and placed under the temporary management of the Revenue-authorities, without having recourse to any judicial proceeding;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government;

the Vice-President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated.

**2.** *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries, to Government, shall be issued to the officer in whose custody such person is to be placed.

Proceeding for placing persons under restraint as State prisoners.

*Second.*[a]—The warrant of commitment shall be in the following form:—

Form of warrant.

To the [*here insert the officer's designation.*]

"Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [*here insert the State prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*], you are hereby required and commanded, in pursuance of that determination, to receive the person above-named into your custody, and to deal with him in conformity to the orders of the Governor General in Council, and the provisions of Regulation III of 1818.

"Fort William, the

"By order of the Governor General in Council,

"*A. B.*, Chief Secy. to Govt."

*Third.*—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William.

Authority of warrant.

**3.** Every officer in whose custody any State prisoner may be placed shall, on the first of January and first of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

Officers having custody of State prisoners, to submit periodical reports.

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[a] See Act No. XXXIV of 1850, section 1.

State prisoners in custody of zila or city Magistrate by whom to be visited.

4. *First.*—When any State prisoner is in the custody of a zila or city Magistrate, the Judges are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head.

State prisoners in custody of public officer not being zila or city Magistrate, by whom to be visited.

*Second.*—When any State prisoner is placed in the custody of any public officer not being a zila or city Magistrate, the Governor General in Council will instruct either the zila or city Magistrate, or the Judge or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

Representations by State prisoners to be submitted to Government.

5. The officer in whose custody any State prisoner may be placed, is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

Report to Government regarding confinement, &c., of prisoners.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council, whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation of allowance for support.

7. Every officer in whose custody any State prisoner may be placed, shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

Attachment of estates by order of Government without decision of Court.

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamíndár, jágírdár, taluqdár or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated,[a] to the Sadr Díwání Adálat and Nizámat Adálat.

Management of attached estates.

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under khás management.

[a] *Sic.* Read "and to."

*Second.*—Such lands or estates shall not be liable to be sold in execution of decrees of the civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Attached lands not liable to sale in execution.

*Third.*—In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the civil Courts.

Government to arrange for satisfaction of decrees.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate, which may have accumulated during the attachment.

Rules as to cases where Government orders release of estate from attachment.

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## REGULATION VI OF 1825.

*Passed on the 4th of April, 1825.*

A Regulation for rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.[a]

1. WHEREAS it is enacted in the first clause of section 3, Regulation XI. 1806, that on receiving the notification mentioned in the preceding section, relative to a body of troops about to proceed, by land or by water, through any part of the Company's territories, the Collector of the district shall immediately issue the necessary orders to the landholders, farmers, tahsíldárs or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nálás as may intersect their march without impediment or delay; it being at the same time further directed, in the second clause of the section referred to, that the supplies so furnished shall be paid for by the persons receiving the same at the current bázár-prices of the place at which they may be provided, and that the expense incurred for crossing the troops and

Preamble.

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a The portion repealed by Act No. XII of 1876 has been omitted. The powers of the "Board of Revenue" are exercised by the Chief Commissioner: see *infra*, Act No. XX of 1875, section 3 and schedule.

their baggage over rivers or nálás, after being duly ascertained, will be paid by Government;

and whereas experience has shown the necessity of enabling the Collectors or other public officers acting in that capacity, to enforce their orders in the cases above-mentioned, by imposing a fine upon any landholder, tahsíldár or other person in the possession or management of land, who, after receiving the requisition issued in pursuance of the section above cited, may be proved to have wilfully disobeyed or neglected the same; the Governor General in Council has therefore enacted the following rules, to be in force as soon as promulgated in all the Provinces immediately subject to the Presidency of Fort William.

Penalty for zamíndárs not providing supplies for troops, &c.

2. Any landholder, farmer, tahsíldár or other person in the possession or management of land, who may have been duly required by a Collector of the land-revenue (or any public officer acting in that capacity), in pursuance of section 3, Regulation XI. 1806,[a] to provide supplies for a body of troops about to proceed by land or water through any part of the British territories, or to make preparations of boats, temporary bridges or otherwise, for enabling the troops to cross rivers or nálás intersecting their march; and after the receipt of such requisition shall wilfully disobey or neglect the same, or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him, shall, on proof of such failure, neglect or disobedience, to the satisfaction of the Collector (or other officer acting in that capacity) by whom the order may have been issued, or of his successor in the same office, be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case, in such amount as the Collector or other officer, with due regard to these considerations, may judge it proper to impose, so that the fine shall not in any case exceed the sum of one thousand sikká rupees.

Collector to make summary inquiry.

3. The Collector or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a summary inquiry, in the presence of the party charged with disobeying or neglecting the order issued to him, or of his representative, if, on being duly summoned, he shall attend in person or by vakíl for that purpose;

if he shall fail to attend, either in person or by vakíl, the summary inquiry shall be conducted *ex parte*, and the Collector shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed.

Fine how levied.

4. The Collector or other officer who may adjudge a fine under this Regulation, shall be competent to levy the amount by the same process as is authorized for the recovery of arrears of the public revenue:

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[a] See *supra*, p. 7.

Provided that if an appeal be preferred from his decision, within six weeks from the date of it, to the Board of Revenue in whose jurisdiction the district may be situate, and sufficient security be tendered for performing the judgment of the Board upon the appeal, the Collector shall stay the execution of his order for levying the fine imposed by him, until he shall receive the final order of the Board. Proviso as to appeal.

5. Appeals from the orders of Collectors or other public officers, adjudging fines under this Regulation, may be preferred either immediately to the proper Board, or through the officer by whom the fine may have been adjudged; and, on admission of the appeal, the whole of the proceedings in the case shall be transmitted to the Board. Petition of appeal against fine.

But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment, without proof of sufficient reason for the delay, to the satisfaction of the Board by whom the case may be cognizable. Limitation of appeal.

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## REGULATION XI OF 1825.

*Passed on the 26th of May, 1825.*

A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea.

1. IN consequence of the frequent changes which take place in the channel of the principal rivers that intersect the Provinces immediately subject to the Presidency of Fort William, and the shifting of the sands which lie in the beds of those rivers, chars or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south-eastern limits of Bengal. Preamble.

The lands gained from the rivers or sea by the means above-mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming chars or other lands gained in the manner above described.

The Court of Sadr Díwání Adálat, with a view to ascertain the legal pro-

visions of the Muhammadan and Hindú laws on this subject, called for reports from their law-officers of each persuasion, and on consideration of the reports furnished by the law-officers in consequence, as well as of the decisions which have been passed by the Court of Sadr Díwání Adálat in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature; to be in force, as soon as promulgated, throughout the whole of the Provinces subject to the Presidency of Fort William.

Claims and disputes as to alluvial lands to be decided by usage when clearly recognized and established.

2. Whenever any clear and definite usage of shikast paiwast respecting the disjunction and junction of land by the encroachment or recess of a river may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

Where no usage established, claims how decided.

3. Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea.

Land gained by gradual accession from recess of river or sea.

4. *First.*—When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a zamíndár or other superior landholder, or as a subordinate tenure, by any description of under-tenant whatever:

Extent of interest in increment, of person in possession.

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed, to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under the provisions of Regulation II. 1819, or of any other Regulation in force.

Nor if annexed to a subordinate tenure held under a superior landholder, shall the under-tenant, whether a khudkást raiyat, holding a maurúsí istimrárí tenure at a fixed rate of rent per bíghá, or any other description of under-

tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.

*Second.*—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate, and join it to another estate, without destroying the identity, and preventing the recognition, of the land so removed.

When river by sudden change of course intersects estate.

In such cases the land, on being clearly recognized, shall remain the property of its original owner.

*Third.*—When a char or island may be thrown up in a large navigable river (the bed of which is not the property of an individual), or in the sea, and the channel of the river or sea between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Government.

Chars thrown up in navigable river.

But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land, tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section, with respect to increment of land by gradual accession.

Property therein when channel fordable.

*Fourth.*—In small and shallow rivers, the beds of which, with the jalkar right of fishery, may have been heretofore recognized as the property of individuals, any sand-bank or char that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section.

Chars, &c., thrown up in small shallow rivers.

*Fifth.*—In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or if not, by general principles of equity and justice.

Disputes relative to lands gained by alluvion or by dereliction not provided for by Regulation.

5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent Zila and City Magistrates or any other officers of Government who may be duly empowered for that purpose, from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.

Encroachments on beds of navigable rivers and other obstructions.

## REGULATION XX OF 1825.

*Passed on the 3rd of November, 1825.*

A Regulation for declaring the jurisdiction of the military Courts-martial and Courts of Requests, constituted by a recent Act of Parliament, and for modifying some parts of the existing Regulations in conformity thereto.[a]

Preamble.

1. BY an Act of Parliament passed in the fourth year of the reign of his present Majesty King George the Fourth, entitled "An Act to consolidate and amend the laws for punishing mutiny and desertion of officers and soldiers in the service of the East India Company," provision is made for the trial by Courts-martial of European British subjects, either actually serving as officers or soldiers or otherwise attached to the army, when accused of murder, rape, robbery, theft and other offences committed in a foreign territory, or at any place within the territories subject to the Presidency of Fort William, situate at a greater distance from that Presidency than one hundred and twenty miles, as well as for investing military Courts of Requests constituted according to the provisions of the aforesaid Act with the cognizance of actions of debt and all personal actions to an amount not exceeding four hundred rupees, against any British commissioned or non-commissioned officer or soldier, or other persons amenable to the provisions of the Act, at places situated beyond the jurisdiction of the Court of Requests in Calcutta;

it has in consequence become necessary to rescind or modify certain parts of the Regulations in force which relate to the apprehension or trial of British subjects accused of criminal offences, and to the cognizance of petty offences and actions of debt by a military tribunal;

the following rules have been accordingly enacted, to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.

Procedure as to European British subjects attached to army serving within certain limits, when apprehended by Magistrates on criminal charges.

2. *First.*—In modification of the rules contained in Regulation II. 1796,[b] section 19, Regulation VI. 1803[c] and Regulation XV. 1806,[d] it is hereby provided that if any European British subject who shall be apprehended by or brought before a Magistrate on a charge of murder, rape, robbery, theft or other criminal offence, shall be found, on his apprehension, to have been, at the time when the offence laid to his charge may have been committed, a commissioned or non-commissioned officer or soldier serving with any body of troops in the service of His Majesty or of the Honourable East India Company, at any

[a] See Act No. XI of 1841.

[b, d] Repealed by Act No. XVII of 1862. [c] Repealed by Act No. VIII of 1868.

place not within the territories subject to the Presidency of Fort William, or at any place within such territories which may be situated above one hundred and twenty miles from the aforesaid Presidency, or to have been, when the offence was committed, a person attached to such body of troops in any of the capacities specified in sections 45 and 60 of Statute 4 Geo. IV, cap. LXXXI,[a] it shall be the duty of the Magistrate by whom such person so accused may be apprehended, instead of proceeding to hear evidence to the charge as directed in such cases in the Regulations above-mentioned, to deliver over such person so charged, together with a statement of the charge brought against him, to the commanding officer of the regiment, corps or detachment to which such accused person shall belong, or to the commanding officer of the nearest military station, for the purpose of his being brought to trial before a Court-martial under the provisions of the said Act of Parliament.

Magistrates to assist in apprehension of persons when accused of criminal offences.

*Second.*—It shall further be the duty of every Magistrate, on a written application being made to him for that purpose by the commanding officer of any regiment, corps or detachment stationed or employed as specified in the preceding clause, to use his utmost endeavour for the apprehension of any British officer, non-commissioned officer, soldier or other person of the description therein alluded to, who may have been charged with the crime of murder, rape, robbery, theft or other criminal offence, and also to give his assistance, and that of the officers under his control, in securing the person so accused.

Magistrates to enforce process for attendance of witnesses, &c., before Courts-martial, on application.

*Third.*—It is hereby declared that it shall be competent to the Judge-Advocate-General or Deputy Judge-Advocate, or other person appointed to conduct the proceedings of any Court-martial assembled for the trial of offences under the provisions of the said Act of Parliament, to transmit to the Magistrate of the zila or city within whose jurisdiction persons whose attendance before such Court-martial is required may reside, any warrant, summons or other process for the attendance of such person;

and it shall be the duty of such Magistrate who may be so applied to, to give his assistance and that of the officers under him in the due execution of such process, and generally to aid and assist in the execution of all processes issued by such Courts-martial.

Magistrates not to inquire into criminal charges preferred against certain British subjects.

*Fourth.*—The several zila and city Magistrates are hereby prohibited from receiving and inquiring into any criminal charge of the nature described in section 2 of Statute 4 Geo. IV, cap. LXXXI, which may be preferred to them against any British commissioned or non-commissioned officer, soldier or other person attached to the army, who may have been regularly brought to trial

[a] Repealed by 3 & 4 Vic., c. 37, s. 59.

under the provisions of the said Act, and acquitted or convicted by the sentence of a Court-martial of such offence;

provided, however, that in any case wherein it may be ascertained by the Magistrate on due inquiry that any person accused of such criminal offence, who may be subject to trial by Court-martial, has not been brought to trial for such offence before a Court-martial, and that no effectual proceedings have been taken, or have been ordered to be taken, against him, then and in that case it shall be the duty of the Magistrate to report the circumstance for the information and orders of the Governor General in Council, who, if it appear to him proper so to do, will direct the case to be proceeded upon in the ordinary course of law; and the Magistrate, if so authorized, shall be competent to proceed against the offender under the provisions of the Regulations hitherto in force.

Proceeding against British subjects accused of criminal offences when not attached to army or triable by Court-martial.

*Fifth.*—Provided always, and it is hereby declared, that nothing contained in the foregoing clauses shall be held to restrict the Magistrates of districts, either in their ordinary capacity of Magistrates or as His Majesty's Justices of the Peace duly qualified, from proceeding under the rules heretofore in force against all British subjects charged with criminal offences, who may not be attached to the army or subject to be tried for such offences by a Court-martial.

Provisions not to apply to troops in Fort William or at other place not situated above 120 miles from Presidency.

*Sixth.*—It is hereby further declared that the provisions of this Regulation, as far as the same relate to criminal offences committed by any commissioned or non-commissioned officer, soldier or other person attached to the army, being British subjects, shall not be held to apply or be in force when such offences shall be committed by persons of the above description, attached to any body of troops which may be stationed in the garrison of Fort William, or at Barrackpore, Mednípur, Dam-Dam or at any other place within the territories under the Presidency of Fort William, which may not be situated at a greater distance than one hundred and twenty miles from the said Presidency;

and in all such places, the powers and authorities vested by law in the Magistrates and Justices of the Peace shall continue to be and remain in full force and effect.

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## REGULATION V OF 1827.

*Passed on the 27th of December, 1827.*

A Regulation for modifying the rules at present in force for the management of estates under attachment by orders of the Courts of Justice in certain cases.[a]

Preamble.

1. WHEREAS it is expedient in all cases of the attachment of landed pro-

[a] The portions repealed by Act No. XVI of 1874 have been omitted. The powers of the "Board of Revenue" are exercised by the Chief Commissioner: see *infra*, Act No. XX of 1875, section 3 and schedule.

perty under orders of the Courts of Justice, that the management of the estate attached should be placed under the superintendence of the Collectors of land-revenue, the following rules have been enacted by the Governor General in Council, to be in force from the date of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

Modification of Regulations as to management of attached estates.

**2.** The rules contained in sections 5 and 6, Regulation V. 1799,[a] and clauses 5 and 6, section 16, Regulation III. 1803,[b] regarding the administration and management of estates under orders of the Zila Courts, are hereby declared subject to the following modifications.

Issue of precept for holding estates under attachment and for appointing managers.

**3.** Whenever the Zila Courts may deem it just and proper, under the provisions of the several Regulations above-mentioned, to provide for the administration or management of landed property, the Court shall issue a precept to the Collector of land-revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof;

provided, however, that if any person holding an interest in the estate shall be dissatisfied with the selection made by the Collector of the individual to perform the duty in question, or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue, and the Board will either confirm the manager chosen, or order the Collector to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.

Precept to state property included in attachment.

**4.** The precept of the Zila Court above-mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

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a See *supra*, p. 4.

b Repealed by Act No. XIX of 1873.

# PART II

## THE LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE CENTRAL PROVINCES.

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### ACT No. XX of 1856.

*Received the Governor General's assent on the 14th of November, 1856.*

**An Act to make better provision for the appointment and maintenance of Police chaukídárs in cities, towns, stations, suburbs and bázárs in the Presidency of Fort William in Bengal.**[a]

WHEREAS it is expedient to make better provision for the appointment and maintenance of Police chaukídárs in cities, towns, stations, suburbs and bázárs in the Presidency of Fort William in Bengal; It is enacted as follows :— Preamble.

1. The monthly assessment, levied under Regulation XXII. 1816,[b] and Act XV of 1837[c] in any city or station at the time of the passing of this Act, shall continue to be levied until the same shall be revised and altered under the provisions of this Act. Existing assessment to be levied until revised.

2. The provisions of this Act shall have effect in all cities, stations, towns, suburbs and bázárs in the said Presidency, to which the Local Government may at any time extend the same by notification in the official Gazette: To what places Act shall apply.

Provided always that this Act shall not be extended to any agricultural village. Proviso.

In all places in which this Act is now in force, it shall be deemed to have been extended under the provisions of this section.[d]

3. The Government may, by notification to be published in the official Gazette, unite, for the purposes of this Act, any city, town, suburb, station or bázár, or any part or parts of a city, town, suburb, station or bázár, with any other city, town, suburb, station or bázár, or part or parts of a city, town, suburb, station or bázár; and in such case all the provisions of this Act applicable to a city, town, suburb, station or bázár shall apply to such union. Unions may be formed.

4. For the purposes of this Act the Local Government may define and declare the limits of any city, town, suburb, station, bázár or union, and all Government may define limits of

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a Extended to the cantonment of Asírgarh, 2nd July, 1872.
b, c Repealed by this Act.
d See Act No XXII of 1871, *infra*.

cities, towns, &c.

occupiers of houses within any such city, town, suburb, station, bázár or union as aforesaid, or within such limits as shall be so defined as aforesaid, shall be liable to be assessed or rated according to the provisions of this Act, for the purpose of maintaining the chaukídárs appointed to be maintained in such city, town, station, suburb, bázár or union.

Houses let to lodgers how assessed.

5. If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall, for the purposes of this Act, be deemed to be the occupier of such house.

Penalty for removing, &c., name of street or number of house.

6. The Magistrate may cause a name to be given to any street and affixed in such place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mahalla, for the purpose of identifying such house; and if any person shall wilfully remove, obliterate or destroy such name or number, he shall be liable, on conviction by a Magistrate, to a fine not exceeding twenty rupees.

Magistrate to determine number of chaukídárs. Proviso.

7. The Magistrate shall determine the number of chaukídárs to be maintained in any city, town or other such place as aforesaid; but the number of chaukídárs so to be maintained shall not exceed one to every twenty-five houses.

Grades and wages of chaukídárs.

8. The chaukídárs appointed under this Act may be of different grades, and the wages to be paid to the several grades shall be determined by the Magistrate.

Magistrate to determine sum to be raised annually.

9. The Magistrate shall determine the total amount required to be raised in any year in any city, town or other such place as aforesaid, for the purpose of maintaining the chaukídárs appointed to be maintained therein and for the purposes specified in sections 33, 34, 35 and 36 of this Act, together with such sum as the Magistrate may consider necessary to provide against the contingency of losses from defaulters in the current year, and the amount of losses, if any, actually sustained from defaulters in the preceding year.

Nature of tax to be levied.

10. The tax to be levied in any city, town or other place as aforesaid, for the purposes of this Act, may be either an assessment according to the circumstances and the property to be protected of the persons liable to the same, or a rate on houses and grounds according to the annual value thereof. The Local Government, on the report of the Magistrate and Commissioner of Circuit, shall determine in each case whether the tax to be levied shall be such assessment or such rate.

Limitation of tax.

11. If the tax be an assessment according to the circumstances and the property to be protected of the persons liable to the same, the amount assessed in respect of any one house shall not be more than the pay of a chaukídár of

the lowest grade. If the tax be a rate on houses and grounds, it shall not exceed five per centum of the annual value thereof.

**12.** For the purpose of making a rate under this Act, the annual value of the houses and grounds liable to the rate shall be computed and ascertained upon an estimate of the gross annual rent at which the same might reasonably be expected to let from year to year. Rate how ascertained.

Grounds used for purposes of trade shall be liable to the rate, but grounds used for the purpose of cultivation or for depasturing cattle shall not be liable.

**13.** The Magistrate may, at his discretion, exempt from the assessment or rate, or may relieve from the payment of his assessment or rate, any occupier who may be unable from poverty to pay the same. Magistrate may exempt occupiers unable to pay.

**14.** For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a panchâyat for each such city, town or other place as aforesaid, or, when he may see fit to divide any such city, town or place into convenient divisions, for each division thereof, and shall issue a sanad of appointment, specifying the names, residence, business or other description of the persons appointed and the period for which the appointment is made. Constitution of panchâyats.

Every panchâyat shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town or other place, or in or near to any such division thereof:

Provided that, instead of any one such person, the Magistrate may appoint any person whom he may think fit to be a member of the panchâyat, notwithstanding such person may not reside or carry on business in or near to such city, town or other place, or in or near to any such division thereof. Magistrate may appoint non-resident person to be a member.

**15.** The panchâyat so appointed, or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment or rate upon the several persons liable to be assessed or rated in respect of their occupation of property within the district (whether city, town or other place as aforesaid, or any division thereof) for which the panchâyat shall be appointed, and shall enter the same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business or other description of such occupier, the property occupied and the amount payable monthly by such occupier. Duties of panchâyat.

If the tax be a rate on the annual value of the property occupied, such annual value and the total amount of the annual rate shall also be specified.

The requisition of the Magistrate to the panchâyat to make out such list shall be in the form marked A or B, as the case may be, set forth in the appendix to this Act annexed, or to the like effect. Magistrate's requisition.

**16.** The panchâyat shall, if required by the Magistrate so to do, instead Panchâyat may revise

existing assessment or rate.

of making a new assessment or rate, revise and amend the assessment or rate then in force.

Magistrate may amend and settle assessment or rate as revised.

17. When an assessment or rate shall have been made or revised, as the case may be, the panchâyat shall forward to the Magistrate the list containing the same; and the Magistrate shall revise, and, if necessary, amend and settle it.

Assessment or rate to be published.

18. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a notification prepared according to the form marked C in the appendix to this Act, or to the like effect, and written in the language of the Province in which the city, town or place is situate, to be stuck up in some conspicuous place in the district for which the assessment or rate has been made; and another copy, together with a like notification, at the nearest Police-thánâ; and shall also cause a third copy to be deposited in his own office.

Assessment or rate to stand good for one year.

Effect of change of occupation before new assessment or rate.

19. Unless revised or corrected as hereinafter provided, every assessment or rate under this Act shall stand good for one whole year, and until a new one is made, and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof; and, after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier.

Revised assessment or rate deemed new.

Every assessment or rate which shall be revised according to the provisions of section 16 shall be deemed a new assessment or rate:

Continuance of assessment of past year.

Provided always, that, if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be republished according to the provisions of section 18, and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding section.

Appeal from assessment or rate.

20. Any person assessed or rated, who shall be dissatisfied with his assessment or rate, or who shall dispute his occupation of any property, or his liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate, after making such inquiries as he deems necessary, by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or rate or amend the same.

Award of costs.

In case the Magistrate confirm the assessment or rate, he may award costs against the appellant.

Decision on appeal. Bar

The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment or rate, nor shall the liability of any

person to be assessed or rated be questioned in any other manner or by any other Court: of jurisdiction.

Provided that no appeal shall be received after the expiration of one month from the time of the notification of the assessment or rate prescribed by section 18, or of the notification of the substitution of the name of an occupier under section 19, unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal. Limitation of appeal.

**21.** The Commissioner of Circuit, with the consent of the Local Government, may at any time direct the Magistrate to revise the assessment or rate of any city, town or other place as aforesaid, specifying the reasons which, in his opinion, render such revision necessary, and the Magistrate shall, according to such direction, revise and, if necessary, amend the same. Commissioner may direct revision of assessment or rate.

**22.** The Magistrate may require the panchâyat to revise the assessment or rate at any period during the year; but on every such occasion he shall address a written order to the panchâyat, specifying the reasons which render such revision necessary, and requiring an amended return within a stated period. Magistrate may direct revision at any time of year, for reasons stated.

**23.** Whenever any assessment or rate is revised during the year as provided in the two last preceding sections, a revised list, together with a notification as prescribed in section 18, shall be prepared and published in the manner therein directed. Publication of assessment or rate as revised.

And all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in section 20. Objections.

**24.** If any person appointed a member of a panchâyat refuse to undertake the office, or omit to perform the duties thereof, and do not, within fifteen days from the date of his appointment, show satisfactory grounds for his refusal or omission, or provide such a substitute as the Magistrate approves, the Magistrate may fine such person in a sum not exceeding fifty rupees. Penalty for refusal to serve on panchâyat.

**25.** If the persons appointed a panchâyat, or a majority of them, refuse or omit, for a period of fifteen days after the receipt of an order from the Magistrate, to perform the duties required of them, the Magistrate may himself make or revise the assessment or rate, and may enforce the same as if it had been made or revised in the first instance by the panchâyat: If panchâyat refuse or omit to act, Magistrate may assume their functions.

Provided that the functions of the panchâyat shall not thereby absolutely cease and determine, but may be resumed at any time, only not so as to invalidate any act done by the Magistrate under this section. Proviso.

**26.** No person shall be bound to act on a panchâyat unless he shall reside or carry on business within the limits of the district for which the panchâyat is to be appointed. Residents only bound to act on panchâyat.

**27.** Every panchâyat shall be appointed for the period of one year, and no person shall be compelled to serve on a panchâyat for more than one year at a Duration of panchâyat and limitation

of service thereon.

time, or within less than three years after the expiry of previous service; but nothing in this section shall prevent any person from being appointed to serve on a panchayat at any time whatsoever with his own consent.

Member of panchayat removeable only on application of rate-payers.

**28.** If a majority of the persons assessed or rated in any district for which a panchayat shall be appointed, not being in arrear, make application in writing to the Magistrate for the removal of any member of the panchayat appointed for such district, the Magistrate, if he think it expedient, may remove such member from the panchayat.

Vacancies in panchayat how supplied.

**29.** If any vacancy shall occur among the members of a panchayat, or if any member appointed shall refuse or decline or be unable to act, the Magistrate may nominate and appoint another person to supply the vacancy or to act in the stead of such member, subject to the rules already laid down as to the original appointment of members; but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sanad under section 14 of this Act.

Panchayat to report misconduct of chaukídárs or death or absence.

**30.** The panchayat shall give notice to the Magistrate of any neglect or misconduct on the part of any chaukídár within the district for which they are appointed, which shall come to their knowledge; and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any chaukídár or from any other cause.

Appointment and duty of sadr panchayat.

**31.** In cities and large towns containing three or more divisions or districts, the Magistrate may appoint a sadr panchayat consisting of not less than five members, who may be selected either from the members of the local panchayats or from any other residents of the city or town.

It shall be the duty of the sadr panchayat to assist the Magistrate, when required so to do, in carrying out generally the objects of this Act, and particularly in revising the assessment or rate made by the district panchayats and enquiring into and reporting on appeals preferred against the same.

Appointment and registry of chaukídárs.

**32.** The chaukídárs to be employed under this Act shall be appointed by the Magistrate, and the Magistrate shall cause to be kept a register in which shall be entered the name, age, place of residence and previous occupation of every person so appointed, with the date of his appointment.

Appointment of jamadárs and inspectors.

**33.** Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint such number of jamadárs and inspectors as may be necessary for the supervision and control of the chaukídárs:

Their number.

Provided that the number of these officers shall not be greater than one jamadár to fifteen chaukídárs, and one inspector to sixty chaukídárs.

Appointment of tax-collectors and other establishment.

**34.** Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint one or more tax-collectors or dároghas, and such other servants as may be necessary, for preparing, or assisting the panchayat in pre-

paring, the assessment or rate, for copying the same, for collecting the tax, keeping the accounts and records and otherwise carrying out the purposes of this Act.

The Magistrate shall take from every tax-collector or dárogha such security for the due disposal of the sums collected by him as may be thought necessary. **Security.**

**35.** The Magistrate may further incur any reasonable expense in the purchase of stationery, in providing badges, dresses and weapons for the chaukídárs, and for any other contingencies that may seem to him necessary. **Contingent expenses.**

**36.** After paying the wages of the chaukídárs, and defraying the charges specified in the three last preceding sections of this Act, the Magistrate may, with the sanction of the Commissioner of Circuit, appropriate any sum which may be available, to the purpose of cleansing the city, town or place, or of lighting or otherwise improving the same. **Surplus-funds may be devoted to conservancy-purposes.**

**37.** The tax-dároghas shall prepare, from the lists hereinbefore mentioned, a register, which shall be attested by the Magistrate or his Deputy or Assistant, and shall contain the names of all persons assessed or rated so far as they can be ascertained, the property in respect of which the assessment or rate in each case is imposed, and the amount payable monthly by each person. **Register of assessments.**

**38.** On such dates as may be fixed by the pancháyats for payment of instalments of the tax,[a] the tax-dárogha shall proceed in person, or through some one of his office-establishment, to collect the amount due for the current month from each person subject to the tax, and for all sums so collected the dárogha shall grant a receipt: **Collection of assessment.**

Provided that, with the sanction of the Commissioners of Circuit previously obtained, the collection may be made quarterly instead of monthly; and in such case, the amount due for each quarter shall be collected in the last month of that quarter.

**39.** The tax-dárogha shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate, or some officer of his establishment authorized on that behalf, shall give the dárogha a receipt for every sum of money so remitted. **Remittance of collections.**

The Magistrate shall also cause all such sums of money to be credited to a separate fund, to be called the Chaukídárí Fund of the city, town or place in or on account of which they are collected.

**40.** The tax-dárogha shall prepare all summonses and processes to be issued against defaulters, and shall make the usual returns thereto, and shall **Preparation of summons, &c.**

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[a] See Act No. XXII of 1871, s. 3, *infra.*

keep a regular account of all distresses levied and sales made by him for the realization of arrears.

Report of defaulters to Magistrate.

**41.** On the tenth day after the date fixed for the payment of instalments of the tax,[a] or as soon after as possible, the tax-dárogha shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in respect to which they are assessed or rated, the amount of the monthly assessment or rate, and the amount due from each.

Summoning defaulters.

**42.** On receipt of the aforesaid list, the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the kachahrí of the Magistrate within a reasonable time, to be specified in the summons, to show cause for his refusal.

Assessment to be levied from defaulters by distress and sale.

**43.** If any defaulter fail to appear in answer to the summons, or having appeared, fail to satisfy the Magistrate that no arrear is due from him, the Magistrate may issue a warrant to the tax-dárogha, authorizing him to levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises in respect of which the arrear is due; and the Magistrate's order as contained in the warrant shall be final.

Sale how conducted.

**44.** The tax-dárogha shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give previous notice of the sale, and the time and place thereof, by beat of drum, in the district in which the property is situated.

If the arrear be not paid with costs, or the warrant be not in the meantime discharged or suspended by the Magistrate, the goods and chattels seized shall be sold at the time and place specified, in the most public manner possible; and the proceeds shall be applied in discharge of the arrears and costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure.

Proceeds how applied.

Returns of sale. Costs.

The tax-darogha shall make a return of all such sales to the Magistrate in the form specified in appendix D, and the costs upon every such proceeding shall be such as are mentioned and set forth in appendix E, annexed to this Act.

Penalty for tax-dárogha purchasing at such sales.

**45.** Any tax-dárogha or other servant appointed under this Act, and any chaukídár or officer of Police, who shall purchase any property at any such sale as aforesaid, shall be liable, upon conviction before a Magistrate, to a penalty not exceeding fifty rupees; and the property shall be confiscated.

Sale of property beyond limits of town, &c.

**46.** If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the district in which the premises are situate, the Magistrate may issue

[a] See Act No. XXII of 1871, s. 4, *infra*.

his warrant to the Názir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever; and such other Magistrate shall back the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant.

Goods liable to distress.

**47.** All goods and chattels, except tools or implements of trade, which may be found upon any premises in respect of which an arrear is due, shall be liable to be distrained for the recovery of such arrear.

Owner of goods to be indemnified by defaulter.

If the goods and chattels belong to any person other than the defaulter, the defaulter shall indemnify the owner of such goods and chattels from any damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same :

Limit to distress.

Provided that no distress shall be made for any arrears due under this Act, after the expiration of six calendar month from the time when such arrears became due.

Penalty for obstructing tax-dárogha in execution of duty.

**48.** Every person who shall wilfully obstruct or molest any tax-dárogha or any of his establishment, in the performance of their duties under this Act, or shall fraudulently conceal, remove or dispose of any of his property for the purpose of avoiding a distress under the provisions of this Act, or shall knowingly assist any other person in so doing, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees.

Magistrates to try complaints against tax-dárogha for extortion, &c.

**49.** The Magistrates shall receive and try all complaints preferred on oath or solemn affirmation against any tax-dárogha or other person appointed under this Act for extortion, malversation or other misconduct in the discharge of his duty.

Penalty for extortion, &c.

On proof of any such offence, the tax-dárogha or other person as aforesaid shall be liable to dismissal from office, and to imprisonment, with or without labour, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or in default and until such delivery or refund be made, shall be liable to further imprisonment, with hard labour, for not more than six months.

Saving of power to commit.

But nothing in this section shall be taken to prevent the Magistrate from committing any tax-dárogha or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

Powers,

**50.** The chaukídárs, and the jamadárs and inspectors appointed under this

duties and liabilities of chaukídárs, jamadárs and inspectors.

Act, shall exercise all the powers, and perform all the duties, and be subject to all the liabilities, of Police-officers as prescribed in the general Regulations of the Bengal Code or Acts of the Government of India for the time being in force, so far as such powers, duties and liabilities are not inconsistent with, or otherwise expressly provided for by, this Act.

The chaukídárs and the jamadárs and inspectors are in all respects subordinate to the Police-dárogha of the tháná within the limits of which they may be employed.

Chaukídárs to wear badges.

**51.** Every chaukídár appointed under this Act shall wear a badge with a number, and the name of the city, town, place or division for which he is appointed, engraved thereon.

Power of chaukídárs—

to arrest without warrant:

**52.** Every chaukídár and every jamadár and inspector appointed under this Act shall have power, without warrant, to apprehend and convey immediately to the nearest Police-station any person or persons taken in the act of committing any heinous offence, or whom he shall have just cause to suspect to be about to commit or to have committed a heinous offence, or against whom a hue and cry shall be raised.

to prevent nuisances:

*Second.*—He shall have power to prevent obstructions and nuisances on the roads and streets:

to give intelligence of resort of thieves, &c.:

*Third.*—He shall give immediate intelligence to the Police-dárogha of the resort to his division of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace:

to examine and detain suspected persons.

*Fourth.*—He may stop, examine, and if necessary detain, any person who shall be reasonably suspected at any time of having or conveying anything stolen, or who shall be found between sunset and sunrise lying or loitering in any highway, yard or other place, and unable to give a satisfactory account of himself, and may convey such person to the nearest Police-station.

Assistance to chaukídárs in making arrests.

**53.** If a chaukídár or other Police-officer be unable to effect an arrest, he may require all persons present to assist him; and any person who refuses or neglects to comply with such requisition shall be liable, on conviction by a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding two months.

Chaukídárs, &c., how paid.

**54.** On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month as the Magistrate may appoint, the chaukídárs and the jamadárs and inspectors (if any) shall be mustered at the tháná to which they are attached, and the Police-dárogha or muharrir of the tháná shall there pay them the wages due to them up to the close of the preceding month, and shall at the same time take the receipt of each chaukídár in an official register of receipts prepared for the purpose; and the dárogha,

after signing the register in attestation of its correctness, shall transmit the same to the Magistrate.

**55.** Any chaukídár and any jamadár or inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month's wages, or to imprisonment for any period not exceeding six months.

Punishment of officers for neglect of duty, &c.

**56.** The Magistrate may suspend or dismiss any officer appointed under this Act, whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Suspension or dismissal of Police-officers.

**57.** All fines levied under this Act shall be credited to the Chaukídárí Fund and held available for the purposes of this Act.

Fines how disposed of.

**58.**—[*Repealed by Act No. X of 1872.*]

**59.** All the proceedings of a Magistrate under this Act, except as otherwise specially provided, shall be subject to the control of the Commissioner of Circuit; and all the proceedings of the Commissioner of Circuit shall be subject to the control of the Local Government.

Control over proceedings of Magistrate and Commissioner.

**60.** Nothing contained in this Act shall extend to the town of Calcutta.

Act not to apply to Calcutta.

**61.** Wherever in this Act, or in any appendix thereto, there is nothing in the context requiring a different interpretation—

Interpretation-clause.

the word "Magistrate" shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate:

the word "house" shall include any shop or warehouse:

the word "bázár" shall mean any place of trade where there is a collection of shops or warehouses:

the word "district" shall mean a city, town, bázár or union, or any division thereof:

the expression "Police-dárogha" shall include any Tahsíldár or Náib-tahsíldár entrusted with Police-jurisdiction.

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## APPENDIX A.

To

[*Here insert the names, places of abode, business or other description of the panchâyat.*]

I do hereby require you, the panchâyat appointed under Act XX of 1856, with all reasonable expedition, not exceeding *(here insert a period to be fixed by the Magistrate)* from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equitable

assessment upon the several occupiers of houses, shops and buildings in the (*here describe the city, town, place or division*), for the purpose of raising the sum of rupees required for the maintenance of chaukídárs for the year commencing on and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances and the property to be protected of each person. But the amount assessed in respect of any one house shall not exceed rupees (*here insert the pay of a chaukídár of the lowest grade*).[a]

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together, with the name and description of such occupier, shall be specified in the list together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade or business or other description of the person assessed, the annual assessment, and the quota payable monthly; and may be in the following form, or to the like effect:—

| Property occupied. | Name of occupier. | Profession or business or other description. | Amount of monthly payment. |
|---|---|---|---|
| | | | |

[a] See Act No. XXII of 1871, s. 5, *infra.*

## APPENDIX B.

To

[*Here insert the names, places of abode, business or other description of the pancháyat.*]

I do hereby require you, the pancháyat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equal rate upon the several occupiers of houses, shops and buildings, and of grounds occupied for the purpose of trade or business, in the (*here describe the city, town, place or division*), for the purpose of raising the sum of rupees
required for the maintenance of chaukídárs for the year commencing on and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of the property occupied.

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property. The rate shall be an equal percentage, not exceeding five per cent. of such annual value.

Any person occupying ground for the purpose of trade is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle is not to be rated in respect thereof.

If the occupier of any house or ground in the said district shall be unable, on the ground of poverty, to pay the rate to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house, and shall be rated accordingly.

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated, the name, trade or business or other description of the person rated, the annual rateable value of the property,

the annual rate, and the quota payable monthly; and may be in the following form, or to the like effect:—

| Property occupied. | Name of occupier. | Profession or business or other description. | Annual value of property. | Annual rate. | Amount of monthly payment. |
|---|---|---|---|---|---|
| | | | | | |

## APPENDIX C.

An assessment (*or* rate, *as the case may be,*) made for (*here describe the city, town, village or other place or division for which the rate is made*) upon the several occupiers of houses and other property in the said district, pursuant to Act XX of 1856, for the purpose of maintaining chaukídárs for such district.

| Property occupied. | Names of occupiers. | Profession or business. | Amount of monthly (*or* quarterly) assessment (*or* rate). |
|---|---|---|---|
| | | | |

Whereas the above assessment (*or* rate, *as the case may be,*) has been duly made pursuant to Act XX of 1856, and has been revised and settled by me the undersigned Magistrate of , the several persons whose names are included in the said assessment (*or* rate) are hereby required to pay the monthly (*or* quarterly) contributions set opposite to their names with regularity to the tax-dárogha or other person appointed by the Magistrate to receive the

same[a] (*if the tax is to be collected quarterly, the months in which the payment is to be made must be specified*), or in default thereof, any arrear that may be due will be realized by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed (*or* rated) and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this day of

*Magistrate of*

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## APPENDIX D.

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
|---|---|---|---|---|---|---|---|---|---|---|
| District. | Names of defaulters. | Amount of defalcation. | Amount, cost or penalty. | Inventory of property seized under distress. | Date of distress. | Date of sale. | Property sold. | Amount realized on each article. | Purchaser's name. | Balance. |
| | | | | | | | | | | |

[a] See Act No. XXII of 1871, s. 5, *infra*.

## APPENDIX E.

*Table of Fees payable in Distraints under this Act.*

| Sum distrained for. | Fee. | |
|---|---|---|
| | Rs. | A. |
| Under 1 rupee | 0 | 4 |
| 1 and under 3 rupees | 0 | 8 |
| 3 „ 5 „ | 1 | 0 |
| 5 „ 10 „ | 1 | 8 |
| 10 „ 15 „ | 2 | 0 |
| 15 „ 20 „ | 2 | 8 |
| 20 „ 25 „ | 3 | 0 |
| 25 „ 30 „ | 3 | 8 |
| 30 „ 35 „ | 4 | 0 |
| 35 „ 40 „ | 4 | 8 |
| 40 „ 45 „ | 5 | 0 |
| 45 „ 50 „ | 5 | 8 |
| 50 „ 60 „ | 6 | 0 |
| 60 „ 80 „ | 7 | 8 |
| 80 „ 100 „ | 9 | 0 |
| Above 100 | 10 | 0 |

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

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## ACT No. XIII of 1857.

*Received the Governor General's assent on the 6th of June, 1857.*

An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal.

Penalty for unlicensed cultivation.

**21.** Any person who shall cultivate the poppy without license from a Sub-deputy Agent or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty bíghás, in which case the fine may be at the rate of twenty-five rupees per bíghá; and the poppy-plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

If the opium shall have been extracted and shall not be seized, the offender

shall be liable to a further fine not exceeding the rate of thirty-two rupees per bíghá of land illegally cultivated.

**22.** All proprietors, farmers, tahsíldárs, gumáshtas and other managers of land, shall give immediate information to the Police or Ábkárí-dároghas, or opium-gumáshtas, or to the Magistrates, Collectors or officers in charge of the Ábkárí mahál, or to the Agents, their deputies or sub-deputies, of all poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, tahsíldár, gumáshta or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

Duty of landholders and others to give information of illegal cultivation.

**23.** All Police and Ábkárí-dároghas, and opium-gumáshtas, and all Native officers of Government of whatever description, and all chaukídárs, paiks and other village Police-officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with poppy; and such authority shall transmit the information to the Sub-deputy Agent, or other officer superintending the cultivation of the poppy, if in a district where the poppy is cultivated on account of Government, or to the Collector or officer in charge of the Ábkárí mahál, if in a district where the poppy is not so cultivated.

Duty of Police and other officers to give information of illegal cultivation.

Every Police or Ábkárí-dárogha, opium-gumáshta, Native officer, chaukídár or other Police-officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

**25.** Proprietors, farmers, tahsíldárs, gumáshtas and other managers of land, shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest Police or Ábkárí-dárogha or opium-gumáshta, who shall thereupon proceed in conformity with the rules contained in the last preceding section.

Landholders, &c., may attach in cases of illegal cultivation.

**26.** Except as otherwise herein provided, all fines, penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or Sub-deputy Agent in districts in which the poppy is cultivated on account of Government, and in other districts on the information of the Collector or officer in charge of the Ábkárí mahál;

Adjudication of penalties.

provided that no information of an offence against this Act shall be admitted unless it be preferred within the period of one year after the commission of the offence to which the information refers.

Imprisonment in default of payment of fine.

**27.** When any person is sentenced to pay any fine or penalty under this Act, such person, in default of payment of the same, may be imprisoned by order of the Magistrate for any time not exceeding six months, or until the fine is sooner paid.

Punishment for repetition of offences.

**28.** Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Place of imprisonment under section 28.

**29.** Every person who shall be imprisoned under the last preceding section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an officer of Government or a village Police-officer convicted of an offence under section 17, 20 or 23, shall be imprisoned in the civil jail.

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## ACT No. XL of 1858.

*Received the Governor General's assent on the 11th of December, 1858.*

## An Act for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal.[a]

Preamble.

WHEREAS it is expedient to make better provision for the care of the persons and property of minors not brought under the superintendence of the Court of Wards; It is enacted as follows:—

**1.**—[*Repealed by Act No. XIV of 1870.*]

Care of persons and property of minors not under Court of Wards.

**2.** Except in the case of proprietors of estates paying revenue to Government who have been or shall be taken under the protection of the Court of Wards, the care of the persons of all minors (not being European British subjects) and the charge of their property shall be subject to the jurisdiction of the civil Court.

Who may apply for certificate of administration.

No person to sue or defend suit without certificate.

**3.** Every person who shall claim a right to have charge of property in trust for a minor under a will or deed, or by reason of nearness of kin or otherwise, may apply to the civil Court for a certificate of administration;

and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge until he shall have obtained such certificate:

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[a] This Act is in force in the Central Provinces subject to the amendment made by the Indian Majority Act, 1875, see Act No. XX of 1875, section 3 and schedule.

Provided that, when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a minor to institute or defend a suit on his behalf, although a certificate of administration has not been granted to such relative.

Power to allow relative of minor to act.

4. Any relative or friend of a minor in respect of whose property such certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the district, may apply to the civil Court to appoint a fit person to take charge of the property and person of such minor.

Who may apply to Court to appoint person to take charge of minor's property.

5. If the property be situate in more than one district, any such application as aforesaid shall be made to the civil Court of the district in which the minor has his residence.

Application where property in more than one district.

6. When application shall have been made to the civil Court either by a person claiming a right to have charge of the property of a minor or by any relative or friend of a minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same.

Procedure of Court on application.

On the day so fixed or as soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case.

Provided always that it shall be competent to the civil Court to direct any Court subordinate to it to make such enquiry and report the result.

Reference to subordinate Court.

7. If it shall appear that any person claiming a right to have charge of the property of a minor is entitled to such right by virtue of a will or deed, and is willing to undertake the trust, the Court shall grant a certificate of administration to such person.

Certificate of administration to whom to be granted.

If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a certificate to such relative.

The Court may also, if it think fit (unless a guardian have been appointed by the father), appoint such person as aforesaid, or such relative or any other relative or friend of the minor, to be guardian of the person of the minor.

Court may appoint guardian.

8. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the minor who may be desirous or willing to be entrusted with the charge of his property or person.

Court may call for report as to relative or friend.

9. If no title to a certificate be established to the satisfaction of the Court by a person claiming under a will or deed, and if there be no near relative willing and fit to be entrusted with the charge of the property of the minor, and the Court shall think it to be necessary for the interest of the minor that provision should be made by the Court for the charge of his property and

Proceeding if no title to certificate be established, and if there be no relative fit to be entrusted with property.

person, the Court may proceed to make such provision in the manner hereinafter provided.

When Court may grant certificate to Public Curator or other person.

**10.** If the estate of the minor consist of moveable property or of houses, gardens or the like, the Court may grant a certificate to the Public Curator appointed under section 19, Act XIX of 1841[a] (*for the protection of moveable and immoveable property against wrongful possession in certain cases*), or, if there be no Public Curator, to any fit person whom the Court may appoint for the purpose.

Appointment of guardian.

**11.** Whenever the Court shall grant a certificate of administration to the estate of a minor to the Public Curator or other person as aforesaid, it shall at the same time appoint a guardian to take charge of the person and maintenance of the minor.

The person to whom a certificate of administration has been granted, unless he be the Public Curator, may be appointed guardian.

Guardian's allowance.

If the person appointed to be guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance, to be paid out of the estate of the minor, as under the circumstances of the case it may think suitable.

Minor's allowance.

The Court may also fix such allowance as it may think proper for the maintenance of the minor; and such allowance and the allowance of the guardian (if any) shall be paid to the guardian by the Public Curator or other person as aforesaid.

When Court may direct Collector to take charge of estate. Appointment of manager and guardian thereupon.

**12.** If the estate of the minor consist, in whole or in part, of land or any interest in land, the Court may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a manager of the property of the minor and a guardian of his person, in the same manner and subject to the same rules in respect of such appointments and of the duties to be performed by the manager and guardian respectively, so far as the same may be applicable, as if the property and person of the minor were subject to the jurisdiction of the Court of Wards.

Costs of enquiries.

**13.** In all enquiries held by the Civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application the enquiry was made, or out of the estate of the minor or otherwise, as it may think proper.

When civil Court may direct Collector to retain charge of shares and persons of certain minors.

**14.** Whenever one or more of the proprietors of an estate which has come under the jurisdiction of the Court of Wards on account of the disqualification of all the proprietors, ceases to be disqualified, and the estate, in consequence, ceases to be subject to the jurisdiction of the Court of Wards, notwithstanding the continued disqualification of one or more of the co-proprietors, the Collector

[a] See General Acts, vol. I.

of the district in which the estate is situate may represent the fact to the civil Court; and the Court, unless it see sufficient reason to the contrary, shall direct the Collector to retain charge of the persons and of the shares of the property of the still disqualified proprietors, during the continuance of their disqualification, or until such time as it shall be otherwise ordered by the Court.

The Collector shall in such case appoint a guardian for the care of the persons, and a manager for the charge of the property, of the disqualified proprietors, in the manner prescribed in section 12.

Provision for case of estates situated in more than one district.

If the property be situate in more than one district, the representation shall be made by the Collector, who had the general management of the property under the Court of Wards, to the civil Court of his own district, and the orders of the Court of that district shall have effect also in other districts in which portions of the property may be situate.

Control of proceedings of Collector.

**15.** The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue-authorities.

Public Curator, &c., to furnish inventory

**16.** The Public Curator and every other administrator to whom a certificate shall have been granted under section 10 shall, within six months from the date of the certificate, deliver in Court an inventory of any immoveable property belonging to the minor, and of all such sums of money, goods, effects and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same.

and annual accounts.

And the Public Curator and every such other administrator shall furnish annually, within three months from the close of the year of the era current in the district, an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate, and the balance in hand.

Proceeding if accuracy of inventory or account be impugned.

If any relative or friend of a minor or any public officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the curator or administrator and enquire summarily into the matter, and make such order thereon as it shall think proper, or the Court at its discretion may refer such petition to any subordinate Court.

Payment of surplus into treasury. Investment.

**17.** All sums received by the Public Curator or such other administrator on account of any estate, in excess of what may be required for the current expenses of the minor or of the estate, shall be paid into the public treasury on account of the estate, and may be invested from time to time in the public securities.

Powers of person to whom certificate granted, in manage-

**18.** Every person to whom a certificate shall have been granted under the provisions of this Act may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a minor, and may

ment of minor's estate.

collect and pay all just claims, debts and liabilities due to or by the estate of the minor.

But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the civil Court previously obtained.

Relative or friend may sue for account.

**19.** It shall be lawful for any relative or friend of a minor, at any time during the continuance of the minority, to sue for an account from any manager appointed under this Act, or from any person to whom a certificate shall have been granted under the provisions of this Act, or from any such manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Continuance of suit after disqualification ceases.

**20.** If the disqualification of a person for whose benefit a suit shall have been instituted under this Act cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Revocation of certificate.

**21.** The civil Court for any sufficient cause may recall any certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a certificate to the Public Curator or any other person, as the case may be; and may compel the person whose certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all monies received and disbursed by him.

Removal of guardian.

The Court may also for any sufficient cause remove any guardian appointed by the Court.

Penalty for neglect or refusal to deliver accounts or property.

**22.** The civil Court may impose a fine not exceeding five hundred rupees on any person who may wilfully neglect or refuse to deliver his accounts or any property in his hands, within the prescribed time, or a time fixed by the Court; and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court; and may also commit the recusant to close custody until he shall consent to deliver such accounts or property.

Civil Court may permit resignation of trust, &c.

**23.** The civil Court may permit any person to whom a certificate shall have been granted under this Act not being the Public Curator, and any guardian appointed by the Court, to resign his trust; and may give him a discharge therefrom on his accounting to his successor, duly appointed, for all monies received and disbursed by him, and making over the property in his hands.

Remuneration of Public Curator, &c.

**24.** The Public Curator and every other administrator to whom a certificate shall have been granted under section 10, shall be entitled to receive such

commission not exceeding five per centum on the sums received and disbursed by him, or such other allowance, to be paid out of the minor's estate, as the civil Court shall think fit.

Guardians of minors to provide for education.

**25.** Every guardian appointed by the civil Court or by the Collector under this Act, who shall have charge of any male minor, shall be bound to provide for his education in a suitable manner.

Act XXVI of 1854 declared applicable.

The general superintendence and control of the education of all such minors shall be vested in the civil Court or in the Collector, as the case may be; and the provisions of Act XXVI of 1854 (*for making better provision for the education of male minors subject to the superintendence of the Court of Wards*) shall, so far as is consistent with the provisions herein contained, be applicable to the civil Court or to the Collector, as the case may be, in respect to such minors, and to every such guardian.

Persons under 18 years held minors.

**26.** For the purposes of this Act, every person shall be held to be a minor who has not attained the age of eighteen years.[a]

Act not to authorize appointment of guardians of certain married women and other persons.

**27.** Nothing in this Act shall authorize the appointment of a guardian of the person of a female whose husband is not a minor, or the appointment of a guardian of the person of any minor whose father is living and is not a minor; and nothing in this Act shall authorize the appointment of any person other than a female as the guardian of the person of a female.

Guardianship in certain cases when to cease.

If a guardian of the person of a minor be appointed during the minority of the father or husband of the minor, the guardianship shall cease as soon as the father or husband (as the case may be) shall attain the age of majority.

Appeals.

**28.** All orders passed by the civil Court or by any subordinate Court under this Act shall be open to appeal under the rules in force for appeals, in miscellaneous cases, from the orders of such Court and the subordinate Courts.

Construction of "civil Court." Powers of Supreme Court no affected.

**29.** The expression "civil Court" as used in this Act shall be held to mean the principal Court of original jurisdiction in the district, and shall not include the Supreme Court; and nothing contained in this Act shall be held to affect the powers of the Supreme Court over the person or property of any minor subject to its jurisdiction.[b]

Number. Gender.

Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

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a, b See *Jadunath Mitter* v. *Bolyechand Dutt*, 7 Beng. 612, 613.

## ACT No. XIV OF 1865.

*Received the Governor General's assent on the 7th of April, 1865.*

# An Act to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.

Preamble.

WHEREAS it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces; It is enacted as follows:—

Short title.

1. This Act shall be called "The Central Provinces Courts' Act, 1865."

Interpretation-clause.

2. In this Act—

"Assistant Commissioner."

"Assistant Commissioner" includes Extra Assistant Commissioner.

"District." "District Court." "Division." "Divisional Court."

3. For the purposes of this Act, the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

Grades of Courts.

4. There shall be eight grades of Courts in the Central Provinces, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely:—

(1.) The Court of the Tahsíldár of the second class.
(2.) The Court of the Tahsíldár of the first class.
(3.) The Court of the Assistant Commissioner of the third class.
(4.) The Court of the Assistant Commissioner of the second class.
(5.) The Court of the Assistant Commissioner of the first class.
(6.) The Court of the Deputy Commissioner.
(7.) The Court of the Commissioner.
(8.) The Court of the Judicial Commissioner.

Power to declare grade of Tahsíldár or Assistant Commissioner.

5. Subject to any orders that may from time to time be issued by the Local Government, the Chief Commissioner shall have power to declare to which of the said grades any Tahsíldár and any Assistant Commissioner shall belong.

Power to give Náib Tahsíldárs jurisdiction up to fifty rupees.

6. The Chief Commissioner may, with the sanction of the Local Government, invest any Náib Tahsíldár with power to try and determine suits for money due, whether on bond or other contract, or for rent, or for personal property or for the value of such property, or for damages, when the debt, damage or demand does not exceed in amount or value the sum of fifty rupees, and to prescribe the local limits within which the Náib Tahsíldár so invested shall exercise such power.

7. The Court of the Tahsíldár of the second class shall have power to try and determine suits of every description not exceeding one hundred rupees in value or amount. Jurisdiction of— Tahsíldár, 2nd class.

8. The Court of the Tahsíldár of the first class shall have power to try and determine suits of every description not exceeding three hundred rupees in value or amount. Tahsíldár, 1st class.

9. The Court of the Assistant Commissioner of the third class shall have power to try and determine suits of every description not exceeding five hundred rupees in value or amount. Assistant Commissioner, 3rd class.

10. The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description not exceeding one thousand rupees in value or amount. Assistant Commissioner, 2nd class.

11. The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description not exceeding five thousand rupees in value or amount. Assistant Commissioner, 1st class.

12. The Court of the Deputy Commissioner shall have power to try and determine suits of every description and of any amount, and to hear appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the first, second, third and fourth grades, and of Náib Tahsíldárs invested as aforesaid. Deputy Commissioner.

13. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the fifth and sixth grades. Commissioner.

14. The Court of the Judicial Commissioner shall have power to hear and determine appeals from the original decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioners, and also applications for a special appeal as provided in the said Code, from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions. Judicial Commissioner.

15. The memorandum of appeal prepared in the form, and containing the particulars, mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within the said period; that is to say, thirty days if the appeal lie to the Deputy Commissioner; six weeks if the appeal lie to the Commissioner of a Division; and ninety days if the appeal lie to the Judicial Commissioner. Time for presenting appeals.

The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time

as may be requisite for obtaining a copy of the decree or order from which the appeal is made.

Applications for special appeal shall be presented in the Court of the Judicial Commissioner within the period hereinbefore fixed for appeals.

Power to invest persons with certain powers.

**16.** Whenever the state of the public business requires it, the Local Government shall have power to invest any person with the powers of a Commissioner or of a Deputy Commissioner in any part of the Central Provinces.

**17, 18.**—[*Repealed by Act No. X of 1877.*]

Power to distribute business.

**19.** The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

Transfer of suits by Commissioner or Deputy Commissioner.

**20.** The Commissioner of the Division or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself or refer it for trial to any other such subordinate Court and competent in respect of the value or amount of the suit to try the same.

The Commissioner of the Division may also withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him, and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his division.

Transfer of suits by Judicial Commissioner.

**21.** The Judicial Commissioner may order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to him, not being a Court of Small Causes, shall be transferred to any other such subordinate Court, competent in respect of the value of the subject-matter of the suit or appeal to try the same.

Suits for immoveable property in different districts.

**22.** If the suit be for any immoveable property situate within the limits of different District Courts within the same division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the division for authority to proceed with the suit; and the Commissioner, after hearing the objections, if any, of the defendant, may give such authority.

If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property in districts subject to different Commissioners.

**23.** If the District Courts within the limits of whose jurisdiction the immoveable property is situate are subordinate to different Commissioners, the application shall be submitted to the Commissioner of the division to whom the District Court in which the suit is brought is subordinate, and the Com-

missioner to whom such application is made may, after hearing the objections, if any, of the defendant, give authority to proceed with the suit.

24.—[*Repealed by Act No. XIV of 1870.*]

25.—[*Omitted as relating only to Oudh.*]

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## ACT No. III of 1867.

*Received the Governor General's assent on the 25th of January, 1867.*

### An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Panjáb, Oudh, the Central Provinces and British Burma.

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories respectively subject to the Governments of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William, of the Lieutenant-Governor of the Panjáb, and to the administrations of the Chief Commissioner of Oudh, of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma ; It is hereby enacted as follows :— Preamble.

1. In this Act— Interpretation-clause.

"Lieutenant-Governor" means the Lieutenant-Governor of the said North-Western Provinces or the Panjáb, as the case may be: "Lieutenant-Governor."

"Chief Commissioner" means the Chief Commissioner of Oudh, the Central Provinces or British Burma, as the case may be: "Chief Commissioner."

"common gaming-house" means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever : "common gaming-house."

words in the singular include the plural and *vice versâ*, and Number.

words denoting the masculine gender include females. Gender.

2. Sections 13, 17 and 18 of this Act shall extend to the whole of the said territories; and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to extend, by a notification to be published in three successive numbers of the official Gazette, all or any of the remaining sections of this Act to any city, town, suburb, railway-station-house and place being not more than three miles distant from any part of such station-house within the territories subject to his Power to extend Act.

government or administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb or station-house, and from time to time to alter the limits so defined.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

Penalty for owning or keeping, or having charge of, a gaming-house.

3. Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room or place, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house; and

whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house; and

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding three months.

Penalty for being found in gaming-house.

4. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding one month;

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorize Police to enter and search.

5. If the Magistrate of a district or other officer invested with the full powers of a Magistrate, or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place, is used as a common gaming-house,

he may either himself enter, or by his warrant authorize any officer of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary,

by night or by day, and by force if necessary, any such house, walled enclosure, room or place,

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all monies and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, &c., in suspected houses, to be evidence that such houses are common gaming-houses.

**6.** When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming are found in any house, walled enclosure, room or place, entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-officer or any of his assistants.

Penalty on persons arrested for giving false names and addresses.

**7.** If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon conviction before the same or any other Magistrate be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

On conviction for keeping gaming-house, instruments of gaming to be destroyed

**8.** On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all monies seized therein to be

forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

**9.** It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Magistrate may require any person apprehended to be sworn and give evidence.

**10.** It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place or any part thereof, of any Magistrate or officer authorized as aforesaid.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code.

Witnesses indemnified.

**11.** Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Act not to apply to certain games.

**12.** Nothing in the foregoing provisions of this Act contained, shall be held to apply to any game of mere skill wherever played.

Gaming and

**13.** A Police-officer may apprehend without warrant

any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill, in any public street, place or thoroughfare situated within the limits aforesaid, or

setting birds and animals to fight in public streets.

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals.

Such person when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month;

and such Police-officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may on conviction of the offender order such instruments to be forthwith destroyed.

Destruction of instruments of gaming found in public streets.

**14.** Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

Offences by whom triable.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure, as to the amount of fine or imprisonment he may inflict.

**15.** Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description:

Penalty for subsequent offence.

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

**16.** The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the monies or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Portion of fine may be paid to informer.

**17.** All fines imposed under this Act may be recovered in the manner prescribed by section 307 of the Code of Criminal Procedure,[a] and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall from time to time direct.

Recovery and application of fines.

**18.**—[*Repealed by Act No. XVI of 1874.*]

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[a] See Act No. X of 1872, schedule V.

## ACT No. XIV of 1867.

*Received the Governor General's assent on the 1st of March, 1867.*

# An Act to provide for the assessment of the Pándharí tax in certain parts of the Central Provinces.

Preamble.

WHEREAS there has for many years existed, and now exists in certain districts of the Central Provinces, a tax called the Pándharí tax, assessable on all persons not engaged in agriculture: And whereas it is expedient to make rules for regulating the assessment of such tax; It is enacted as follows:—

Persons on whom Pándharí tax assessable.

1. The Pándharí tax is hereby declared to be assessable on all persons dwelling or personally working for gain or carrying on business within the districts of Nágpur, Warda, Chánda, Bhandára, Chindwára, Raípur, Bíláspur and Sambhalpur, any part of whose income is derived from any source other than agriculture:

Limitation of assessment.

Provided that no person whose estimated income is less than seventy-five rupees a year shall be assessed to the said tax; that no person shall be assessed to the said tax at a rate exceeding two per centum on his estimated income, and that no person shall be assessable to the said tax at a sum exceeding five hundred rupees per annum.

Power to make rules as to assessment and collection of tax.

2. The Chief Commissioner of the Central Provinces may from time to time, with the previous sanction of the Governor General of India in Council, make and publish in such manner as may seem fit rules not inconsistent with the provisions of this Act or of any other law for the time being in force, to provide (amongst other things) for the matters hereinafter mentioned.

Matters for which rules may provide.

3. The rules made under the last preceding section may provide—

(1) for regulating the manner and rates and classes of assessments:

(2) for regulating the time and manner of collecting the amount assessed; and for allowing, to the persons employed in the collection, fees not exceeding three per centum on the amount assessed upon the tax-payers:

(3) for the imposition of penalties on persons convicted of the breach of any rule or regulation made under the last preceding section:

Provided that no penalty shall exceed a fine of fifty rupees, or imprisonment for a term not exceeding eight days:

(4) for exempting from the operation of this Act special classes of persons in receipt of fixed salaries or pensions, in respect of such salaries or pensions:

(5) for determining the person or persons by whom and the manner in which, in the case of any person to whom this Act shall apply, his or her estimated income, within the meaning of section 1 of this Act, shall be ascertained.

4. Arrears of the said tax shall be recoverable by distress and sale of any moveable property belonging to the defaulter; or, when he or she shall not have any moveable property of which a distraint can be made, or when, after his or her moveable property shall have been distrained and sold, the arrear due together with all expenses of the distress and sale is not liquidated by the proceeds of such sale, then under such rules and procedure as may, for the time being, be in force in the Central Provinces for the realization out of immoveable property of land-revenue. Recovery of arrears.

5. Breaches of rules made under section 2 of this Act shall be triable by any Magistrate. Trial of breaches of rules.

6. The provisions of this Act may be extended by order of the Governor General of India in Council to any district or districts of the Central Provinces other than those named in section 1 of this Act. Extension of Act.

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## ACT No. XXVII OF 1867.

*Received the Governor General's assent on the 22nd of March, 1867.*

### An Act to empower Deputy Commissioners in the Central Provinces, the Panjáb, Oudh and the Jhánsí Division to distribute the business in subordinate Courts.

WHEREAS it is expedient to enable Deputy Commissioners in the Central Provinces, the Panjáb, Oudh and the Jhánsí Division to direct the business in the Courts subordinate to them, respectively, to be distributed among such Courts in such way as the said Deputy Commissioners shall respectively think fit; It is hereby enacted as follows:— Preamble.

1. Notwithstanding anything contained in the Code of Civil Procedure,[a] Act No. XIV of 1865[b] (*to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces*), Act No. XIX of 1865 (*to define the jurisdiction of the Courts of Judicature of the Panjáb and its dependencies*), or Act No. XVIII of 1867 (*to define the jurisdiction of the Courts of Civil Judicature in the Jhánsí Division*), every Deputy Commissioner in Oudh, the Central Provinces, the Panjáb and its dependencies and the Jhánsí Division, may direct the business in the Courts subordinate to him, whether or not they hold their sittings in the same place, to be distributed among such Courts in such way as he shall think fit. Deputy Commissioners empowered to distribute business in Courts subordinate to them.

2. Nothing in this Act shall apply to Courts of Small Causes.

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[a] See Act No. X of 1877, sec. 3. [b] See *supra*, p. 54.

Courts excepted. Act to be read with Acts XIV and XIX of 1865 and XVIII of 1867.

3. This Act shall in the Central Provinces be read with and taken as part of the said Act No. XIV of 1865; in the Panjáb and its dependencies, as part of the said Act No. XIX of 1865; and in the Jhánsí Division, as part of the said Act No. XVIII of 1867.

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## ACT No. XXXII OF 1867.

*Received the Governor General's assent on the 18th of July, 1867.*

An Act to enable the Governor General of India in Council to delegate to a Chief Commissioner any power conferred on a Local Government by an Act of the Governor General of India in Council.

Preamble.

WHEREAS it is expedient to enable the Governor General of India in Council to delegate to any of the Chief Commissioners of Oudh, the Central Provinces and British Burma, any power conferred on the Governor General in Council as the Local Government of the territories under the administration of such Commissioner by any Act of the said Governor General in Council; It is hereby enacted as follows:—

Governor General in Council empowered to delegate to Chief Commissioners certain powers.

1. It shall be lawful for the Governor General of India in Council, by a notification published in the *Gazette of India*, to delegate to the Chief Commissioner of Oudh, the Central Provinces or British Burma, as the case may be, all or any of the powers heretofore or hereafter conferred by any Act of the Governor General of India in Council on the Governor General of India in Council as the Local Government of the territories under the administration of such Chief Commissioner; and all acts done by the Chief Commissioner, to whom any such power shall have been delegated as aforesaid, in exercise of the same power, shall be as valid as if they had been done by the said Governor General in Council.

Short title.

2. This Act may be called "The Chief Commissioners' Powers Act."

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# THE PRISONS ACT, 1870.

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## ARRANGEMENT OF SECTIONS.

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### CHAPTER I.—PRELIMINARY.

SECTIONS.

1. Short title.
Local extent.

SECTIONS.

2. [*Repealed.*]
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# ACT No. XXVI of 1870.

*Received the Governor General's assent on the 3rd of October, 1870.*

## An Act to amend the law relating to prisons.

Whereas it is expedient to amend the law relating to prisons in the North-Western Provinces, the Panjáb, Oudh, the Central Provinces and British Burma, and to provide rules for the regulation of such prisons; It is hereby enacted as follows:— Preamble.

## CHAPTER I.—Preliminary.

1. This Act may be called "The Prisons' Act, 1870." Short title.

It extends only to the territories respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh, the Central Provinces and British Burma. Local extent.

2.—[*Repealed by Act No. XII of 1873.*]

3. In this Act— Interpretation-clause.

"prison" means any gaol or penitentiary, and includes the airing-grounds or other grounds or buildings occupied for the use of the prison; "prison."

"criminal prisoner" means any prisoner charged with or convicted of a crime; "criminal prisoner."

and "civil prisoner" means any prisoner confined in a civil jail, or on the civil side of a jail. "civil prisoner."

## CHAPTER II.—Maintenance and Officers of Prisons.

Local Government to provide prison-accommodation.

4. The Local Government shall provide for the prisoners in the territories under such Government, accommodation in a prison or prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Temporary shelter of prisoners.

5. Whenever it appears to the Local Government that the number of prisoners in any prison is greater than can conveniently or safely be kept therein,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made by such officer and in such manner as the Local Government from time to time directs, for the temporary shelter and safe custody of so many of the prisoners as cannot be conveniently or safely kept in the prison.

Prisoners for whom such temporary shelter is provided shall be subject to the same rules as if they were within the prison.

Inspector General of Prisons.

6. An Inspector General of Prisons shall be appointed in the North-Western Provinces by the Local Government, in the Panjáb by the Local Government, and in Oudh, the Central Provinces and British Burma, by the Governor General in Council.

In each Inspector General so appointed shall be vested (subject to the orders of the Local Government) the general control and superintendence of all prisons situate in the territories under such Government.

Officers of prison.

7. For every prison there shall be a superintendent, a medical officer (who may also be the superintendent), a gaoler and such subordinate officers as the Local Government thinks necessary.

Subject to the orders of the Governor General in Council, the Local Government may direct that for any specified prison there shall also be a deputy medical officer and a deputy gaoler.

Appointment of officers.

8. The Local Government shall appoint the superintendent and the medical officer and the deputy medical officer.

The superintendent (subject to the approval of the Inspector General of Prisons) shall appoint the gaoler and deputy gaoler.

The superintendent shall also appoint the subordinate officers.

Salaries, suspension and dismissal of officers.

9. Every officer appointed under this Act shall receive such salary as (subject to the approval of the Governor General of India in Council) the Local Government directs; and may be suspended or dismissed by the authority appointing him

Provided that no gaoler or deputy gaoler shall be dismissed without the consent of the Inspector General of Prisons.

Any subordinate officer dismissed under this section may appeal to the Inspector General, whose orders on such appeal shall be final.

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## CHAPTER III.—Duties of Officers.

### *Generally.*

**10.** All officers of a prison shall obey the directions of the superintendent: all subordinate officers shall perform such duties as may be directed by the gaoler with the sanction of the superintendent; and the duties of each subordinate officer shall be inserted in a book to be kept by him. Officers to obey superintendent.

**11.** No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner. Officers not to sell or let to prisoners.

**12.** No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison: nor, except so far as is expressly allowed by rules made under section 54, shall he derive any benefit, directly or indirectly, from the sale of any article on behalf of the prison or belonging to a prisoner. Officers not to contract with prisoners; nor to benefit by sales.

### *Superintendent.*

**13.** Subject to the orders of the Inspector General of Prisons, the superintendent shall— Duties of superintendent.

manage the prison in all matters relating to discipline, labour, expenditure, punishment and control:

correspond on all matters connected with the prison with and through the Inspector General:

submit to the Inspector General all bills of prison-expenditure with proper vouchers for audit:

report to the Inspector General from time to time, as they occur, all escapes and recaptures, and all outbreaks of epidemic disease:

send to the Inspector General returns of all prisoners sentenced to transportation:

periodically inspect all property of the Government in his charge, and report thereon to the Inspector General;

and, generally, obey all rules made under section 54 for the guidance of the superintendent.

The superintendent shall also obey all orders respecting the prison given by the Magistrate of the District or the Deputy Commissioner, as the case may be, and shall report to the Inspector General all such orders and the action taken thereon.

*Medical Officer.*

Power to make rules as to medical officer's duties.

**14.** The Local Government shall make rules as to each of the following matters:—

how often the medical officer shall visit the prison and see each prisoner:

the records to be made respecting sick prisoners:

periodical inspection of every part of the prison:

reports on its cleanliness, drainage, warmth and ventilation:

reports on the provisions, water, clothing and bedding supplied to the prisoners.

Medical officer to obey rules.

The medical officer shall obey such rules.

To report special cases.

**15.** Whenever the medical officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the medical officer shall report the case in writing to the superintendent, together with such directions as the medical officer thinks proper.

To make entries as to death of prisoners.

**16.** On the death of any prisoner, the medical officer shall forthwith record in writing the following particulars, namely,—

when the deceased was taken ill,

when the medical officer was first informed of the illness,

the nature of the disease,

when the prisoner died,

and (in cases where a *post mortem* examination is made) an account of the appearances after death,

together with any special remarks that appear to the medical officer to be required.

Deputy medical officer.

**17.** Where a deputy medical officer is appointed to a prison, he shall be competent to perform any duty required by this Act, or by any rule made hereunder, to be performed by the medical officer.

Subordinate medical officer.

When there is no deputy medical officer, or when his services are not available by reason of sickness or other cause, the Local Government may, by general or special order, appoint a subordinate medical officer to act as a substitute for the medical officer, and the subordinate medical officer so appointed shall perform all the duties of the medical officer.

*Gaoler.*

Residence of gaoler.

**18.** The gaoler shall reside in the prison, unless the superintendent permits

him in writing to reside elsewhere. The gaoler shall not, without the Inspector General's sanction, be concerned in any other employment.

**19.** The gaoler shall deliver to the medical officer daily a list of such prisoners as are confined in punishment-cells.

To deliver list of prisoners in punishment-cells.

**20.** Upon the death of a prisoner, the gaoler shall give immediate notice thereof to the superintendent.

To give notice of death of prisoners.

**21.** The gaoler shall keep, or cause to be kept, the following records:—

To keep enumerated books and accounts.

(1) a register of warrants;

(2) a book showing when each prisoner is to be released;

(3) a punishment-book for the entry of the punishments inflicted for prison-offences;

(4) a visitors' book for the entry of any observations made by visitors to the prison;

(5) a record of the money and other articles taken from prisoners;

and all such other records as may be prescribed by rules made under section 54.

**22.** The gaoler shall be responsible for the safe custody of the records to be kept by him under section 21, and also for the commitments and all other documents confided to his care.

Responsible for safe custody of documents.

**23.** The gaoler shall not be absent from the prison for a night without permission in writing from the superintendent; but if absent without leave for a night from unavoidable necessity, he shall report the fact and the cause of it to the superintendent.

Not to be absent without leave.

**24.** Where a deputy gaoler is appointed to a prison, he shall be competent to perform any duty required by this Act or by any rule made under section 54 to be performed by the gaoler.

Deputy gaoler.

Where there is no deputy gaoler, or where his services are not available by reason of sickness or other cause, the superintendent shall, when the gaoler is absent from the prison or temporarily incapacitated, appoint an officer of the prison to act as his substitute during such absence or incapacity, and the substitute so appointed shall have all the powers and perform all the duties of the gaoler.

*Subordinate Officers.*

**25.** The officer acting as gate-porter, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search any person suspected of bringing in spirits or other prohibited articles into the prison, or of carrying out any property belonging to the prison, and if any such articles or property be found, shall give immediate notice thereof to the gaoler.

Powers of gate-porter.

Subordinate officers not to be absent without leave.

**26.** Subordinate officers shall not be absent from the prison without leave from the superintendent, or from the gaoler, and before absenting themselves they shall leave their keys in the gaoler's office.

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## CHAPTER IV.—Admission, Removal and Discharge of Prisoners.

Prisoners to be searched on entrance.

**27.** When a prisoner is first admitted, and whenever he afterwards enters the prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Medical examination of criminal prisoners.

Every criminal prisoner shall also, as soon as possible after admission, be examined by the medical officer, who shall enter in a book, to be kept by the gaoler, a record of the state of the prisoner's health, and any observations which the medical officer thinks fit to add.

Effects of criminal prisoners retained.

**28.** All money or other effects in respect whereof no order of a competent Court has been made, and which may be brought into the prison by any criminal prisoner, or sent to the prison for his use, shall be placed in the custody of the gaoler.

Medical examination before removal and discharge of prisoners.

**29.** All prisoners, previously to being removed to any other prison, shall be examined by the medical officer.

No prisoner shall be removed to any other prison unless the medical officer certifies that the prisoner is free from any illness rendering him unfit for removal.

No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the medical officer, such discharge is safe.

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## CHAPTER V.—Discipline of Prisoners.

Requisitions of Act as to separation of prisoners.

**30.** The requisitions of this Act, with respect to the separation of prisoners, are as follows:—

(1.)—In a prison containing female prisoners as well as males, the women shall be imprisoned in separate buildings or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the men.

(2.)—In a prison where children under twelve years of age are confined, means shall be provided for separating them altogether from the other prisoners.

(3.)—Criminal prisoners before trial shall be kept apart from convicted prisoners.

(4.)—Civil prisoners shall be kept apart from criminal prisoners.

31. The Local Government shall have power to make rules— Rules as to separate confinement.

(1) as to what cells only shall be used for the separate confinement of prisoners:

(2) as to the time during which prisoners not guilty of offences against prison-rules may be confined separately.

32. No cell shall be used for separate confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison. Cells to be furnished with means of communication.

33. Every prisoner under warrant or order for execution shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the gaoler, and all articles shall be taken from him which the gaoler deems it dangerous or inexpedient to leave in his possession. Prisoners under sentence of death.

Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of an officer or guard.

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## CHAPTER VI.—Food, Clothing and Bedding of Prisoners.

34. A civil prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General. Civil prisoner may maintain himself.

35. No part of any food, clothing, bedding or other necessaries belonging to any civil prisoner shall be sold to any other prisoner; and any civil prisoner transgressing this regulation shall lose the privilege of purchasing food or receiving it from private sources, for such time as the superintendent thinks proper. Civil prisoner not to sell provisions.

36. Every civil prisoner unable to provide himself with sufficient clothing and bedding, shall be supplied by the superintendent with such clothing and bedding as may be necessary. Allowance of clothing and bedding.

When any such prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall be liable to pay to the superintendent on demand the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner shall be released. Judgment-creditor to defray such allowance.

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## CHAPTER VII.—Employment of Prisoners.

37. Civil prisoners may, with the superintendent's permission, work and follow their respective trades and professions. Work and earnings of civil prisoners.

Civil prisoners finding their own implements and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements, or are maintained at the expense of the prison, shall be subject to a deduction, to be determined by the superintendent, for the use of implements and the cost of maintenance.

Examination by medical officer of labouring prisoners.

38. The medical officer shall, from time to time, examine the labouring prisoners while they are employed, and shall enter in his journal the name of any prisoner whose health he thinks likely to be injured by a continuance at hard labour, and thereupon such prisoner shall not again be employed at such labour until the medical officer certifies that he is fit for such employment.

But if the medical officer certifies that such prisoner may without detriment to his health be employed on some lighter kind of labour, it shall be lawful for the gaoler so to employ him.

Employment of prisoners sentenced to simple imprisonment.

39. Provision shall be made by the superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment.

The superintendent shall make rules as to the amount and nature of such employment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work, excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such prisoners.

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## CHAPTER VIII.—Health of Prisoners.

Names of sick prisoners to be reported to gaoler.

40. The names of prisoners desiring to see the medical officer or appearing out of health in mind or body shall be reported by the officer attending them to the gaoler.

Gaoler to report them to medical officer.

The gaoler shall, without delay, call the attention of the medical officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention,

and shall carry into effect the medical officer's written directions respecting alterations of the discipline or treatment of any such prisoner.

Entry of directions by medical officer.

41. All directions given by the medical officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the medical officer himself or under his superintendence, shall be entered day by day in his journal, which shall have a separate column wherein entries shall be made by the gaoler, stating in respect of each direction the fact of its having been or not having been com-

plied with, accompained by such observations, if any, as the gaoler thinks fit to make, and the date of the entry.

**42.** In every prison an infirmary or proper place for the reception of sick prisoners shall be provided. Infirmaries.

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## CHAPTER IX.—Visits to and Correspondence of Prisoners.

**43.** Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom prisoners before trial may desire to communicate. Visits to prisoners.

The Local Government shall also impose such restrictions upon the communication and correspondence of prisoners with their friends as it thinks necessary for the maintenance of good order and discipline. Correspondence of prisoners.

**44.** The gaoler may demand the name and address of any visitor to a prisoner; and, when the gaoler has any ground for suspicion, may search visitors, or cause them to be searched, but the search shall not be in the presence of any prisoner or of another visitor. Power of gaoler as to visitors.

In case of any such visitor refusing to be searched, the gaoler may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in his journal.

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## CHAPTER X.—Offences in Relation to Prisons.

**45.** Whoever, contrary to the regulations of the prison, brings, throws or attempts by any means whatever to introduce into any prison, or any place provided under section 5 for the temporary shelter and safe custody of prisoners, any spirituous or fermented liquor, or tobacco, or intoxicating or poisonous drug, Carrying liquor, tobacco or drugs into prison,

and every officer of a prison who knowingly suffers any such liquor, tobacco or drug to be sold or used in such prison or place contrary to such regulations, suffering liquor, tobacco or drugs to be sold or used in prison,

and whoever, contrary to such regulations, conveys, or attempts to convey, any letter or other article not allowed by such regulations into or out of any such prison or place, carrying letters into and out of prison,

and whoever abets within the meaning of the Indian Penal Code any offence made punishable by this section, abetment of such offences.

shall, on conviction before a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Notice of penalties to be placed outside prison.

**46.** The superintendent shall cause to be affixed, in a conspicuous place outside the prison or the place provided as aforesaid, a notice setting forth the penalties incurred by persons committing any offence under section 45.

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## CHAPTER XI.—Prison-offences.

List of prison-offences.

**47.** The following acts are declared to be offences against prison-discipline :—

(1) wilful disobedience to the regulations of the prison by any prisoner ;

(2) assaults or use of criminal force by any prisoner ;

(3) insulting or threatening language by any prisoner to any officer or prisoner ;

(4) indecent or disorderly behaviour by any prisoner ;

(5) wilfully disabling himself from labour ;

(6) contumaciously refusing to work ;

(7) filing or cutting irons or bars ;

(8) idleness or negligence at work by any convicted criminal prisoner ;

(9) wilful mismanagement of work by any convicted criminal prisoner ;

(10) wilful damage to prison-property ;

(11) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

Superintendent's power to punish prison-offenders.

**48.** The superintendent may examine any person touching such offences, and determine thereupon, and punish such offences—

(1) by imprisoning the offender in solitary confinement for any time not exceeding seven days ;

(2) by ordering the offender for any time not exceeding three days to close confinement, to be there kept upon a diet reduced to such extent as the Local Government shall prescribe ;

(3) by corporal punishment not exceeding thirty stripes of a ratan ; or

(4) where the offender is not sentenced to rigorous imprisonment, by hard labour for any time not exceeding seven days.

The gaoler shall enter in a separate book, called the punishment-book, a statement of the nature of any offence that has been punished under this section, with the addition of the name of the offender, the date of the offence, and the amount of punishment inflicted. Such statement shall be signed by the superintendent.

Punishment of prisoners by Magistrate.

**49.** If any prisoner is guilty of repeated offences against prison-discipline, or is guilty of any offence against prison-discipline which the superintendent thinks is not adequately punishable under section 48, the superintendent shall report the same to the Magistrate of the district or any Magistrate

empowered to receive complaints without reference by the Magistrate of the district.

Such Magistrate shall have power to inquire upon oath and to determine concerning any matter so reported to him, and to sentence the offender to be punished—

by confinement in a punishment-cell or in irons for any term not exceeding six months,

or by corporal punishment not exceeding thirty stripes of a ratan,

or by rigorous imprisonment for a term not exceeding six months, such term to be in addition to the term for which he is undergoing imprisonment.

Nothing in this or the last preceding section shall authorize the infliction of corporal punishment, or confinement in irons, on any female prisoner or any civil prisoner.

Corporal punishment.

**50.** All corporal punishment within the prison shall be inflicted in the presence of the superintendent, subject to the law for the time being in force relating to the infliction of corporal punishment and the precautions to be taken in reference thereto.

Penalty on officers ill-treating prisoners or violating rules.

**51.** Every gaoler and subordinate officer of a prison ill-treating any prisoner, or wilfully violating or neglecting any rule contained in this Act or made under section 54, shall be liable, on conviction before the superintendent, to fine not exceeding one hundred rupees, or, on conviction before a Magistrate not being the superintendent, to fine not exceeding two hundred rupees, or rigorous imprisonment for a term not exceeding one month, or both.

Any fine imposed by the superintendent under this section may be recovered, either by deductions from the convicted officer's salary and allowances, or under the law for the time being in force for the recovery of fines.

No person shall, under this section, be punished twice for the same offence.

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## CHAPTER XII.—Miscellaneous.

Confinement in irons of prisoners sentenced to rigorous imprisonment.

**52.** Whenever the superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, the superintendent may so confine them.

Confinement in irons by gaoler of his own authority.

**53.** Except in case of urgent necessity, no prisoner shall be put in irons or under mechanical restraint by the gaoler of his own authority, and notice thereof shall be forthwith given to the superintendent.

Except in case of urgent necessity, no prisoner shall be kept in irons or under mechanical restraint for more than twenty-four hours, without an order in writing from the superintendent specifying the cause thereof, and the time

during which the prisoner is to be kept in irons or under mechanical restraint. Such order shall be kept by the gaoler as his warrant.

Power to make supplementary prison-rules.

54. The Local Government may, from time to time, make rules consistent with this Act—

(1) for the government of prisons and for the guidance of all officers appointed hereunder:

(2) as to sales of articles on behalf of prisons or belonging to prisoners, and as to the commission receivable thereon:

(3) as to the food and clothing of criminal prisoners:

(4) for the employment and control of convicts within or without prisons, and for the guidance of the guards in charge of such convicts:

(5) for remission of sentences:

(6) for rewards for good conduct; and

(7) for the appointment and guidance of visitors of prisons.

Copies of such rules, so far as they affect the government of prisons, shall be exhibited in some place to which all persons employed within a prison have access.

Present rules.

55. All rules now in force relating to any of the matters mentioned in sections 14, 31, 39 and 54 shall, so far as such rules are consistent with this Act, be deemed to have been made under those sections respectively.

Exercise of powers of superintendent.

56. All or any of the powers and duties conferred and imposed by this Act on a superintendent may be exercised and performed by such other officer as the Local Government from time to time appoints in this behalf.

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# THE EXCISE ACT, 1871.

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64. Exceptions as to tárí, gánja and bháng.
65. }
66. } [*Repealed.*]
67. }
68. For conniving at illicit manufacture or sale of spirits, &c.
69. On Police neglecting to assist.
70. For maliciously giving false information.
71. For vexatious search or seizure.
72. On excise-officers for delay in reporting arrest, &c., or in carrying person arrested to Magistrate.
73. For conniving at escape of persons arrested, &c.
74. Adjudication of penalties and seizures.

SECTIONS.

75. Procedure in cases other than those of persons sent in custody by Collector or excise-officer.
76. Punishment on second or subsequent conviction.
77. Confinement in civil jail.
78. Disposal of confiscated goods.
79. Disposal of fines, &c., as rewards.
Rewards where no fine is realized.
80. Fines undisposed of to belong to Government.
Special rewards to informers.

IX.—MILITARY CANTONMENTS.

81. Manufacture and sale of spirits, &c., in cantonments.
82. Arrest or search within cantonments.

X.—MISCELLANEOUS.

83. Drawback on exportation.
84. Drawback when not allowed.
85. Recovery of sums due under bond.
86. Appeals from orders and sentences under Act.
87. } [*Repealed.*]
88. }

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## ACT No. X OF 1871.

*Received the Governor General's assent on the 24th of March, 1871.*

# An Act to consolidate and amend the laws relating to the Excise-revenue in Northern India, British Burma and Coorg.

WHEREAS it is expedient to consolidate and amend the laws in force in Northern India, British Burma and Coorg relating to the manufacture of spirits, the sale of spirituous and fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom; It is hereby enacted as follows:— Preamble.

### I.—PRELIMINARY.

1. This Act may be called "The Excise Act, 1871:" Short title.

It extends to the territories respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burma and Coorg. Local extent.

2.—[*Repealed by Act No. XII of 1873.*]

3. In this Act, Interpretation-clause.

"Chief Revenue-Authority" means,— "Chief

Revenue-Authority."

in the territories subject to the Lieutenant-Governor of the North-Western Provinces—the Board of Revenue,

in the Panjáb and Oudh—the Financial Commissioner, and

in the Central Provinces, British Burma and Coorg—the Chief Commissioner :

"Collector."

"Collector" includes any revenue-officer in independent charge of a district and a superintendent of excise-revenue :

"Magistrate."

"Magistrate" means any Magistrate exercising powers not less than those of a subordinate Magistrate of the first class :

"country-spirit."

"country-spirit" means any spirit made by the Native process of distillation :

"intoxicating drugs."

"intoxicating drugs" includes gánja, bháng, charas and every preparation and admixture of the same.

Saving of Act No. XVI of 1863.

4. Nothing heirin contained affects Act No. XVI of 1863[a] (*to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry*).

## II.—Manufacture of Spirits and Fermented Liquor.

English distilleries not to be constructed or worked without license.

5. No person shall construct or work a distillery after the manner in which distilleries are constructed and worked in England, without a license under the hand of the Collector of the district in which such distillery is situated.

Chief Revenue-Authority to prescribe rules for regulating English distilleries.

6. The Chief Revenue-Authority may from time to time make rules relative to—

(*a*) the granting of licenses under section 5 ;

(*b*) the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work ;

(*c*) the size and description of the stills ;

(*d*) the passing and storing of the spirits ;

(*e*) the inspection and examination of the distillery and warehouses, and of the spirits manufactured and stored therein ;

(*f*) the furnishing of statements and lists of such spirits, and of the stills, coppers, casks and other utensils used in the distillery.

Collectors may establish distilleries for country-spirits.

7. The Collector, with the sanction of the Chief Revenue-Authority, may—

(*a*) establish, at any place within his jurisdiction, a distillery in which spirits may be manufactured after the Native process,

(*b*) from time to time fix limits within which no country-spirits, except

[a] See General Acts, vol. I, p 630.

such as are manufactured at the said distillery, shall be introduced or sold without a special pass from the Collector, and within which no stills shall be constructed or worked, or spirits manufactured, except at the said distillery, and

(*c*) discontinue any distillery so established.

**8.** The Chief Revenue-Authority may from time to time make rules relative to—

(*a*) the management of distilleries established under section 7;

(*b*) the conditions on which spirits may be manufactured in the said distilleries, and

(*c*) the passes to be issued for the conveyance of such spirits to the shops of the vendors.

Chief Revenue-Authority may prescribe rules for distilleries.

**9.** No person shall construct or work a brewery, or manufacture any description of malt-liquor, without a license from the Collector.

The Chief Revenue-Authority may from time to time make rules relative to the granting of licenses for constructing and working breweries.

Breweries not to be constructed or worked without license.

**10.** Except in the Central Provinces, British Burma and Coorg, the sanction of the Local Government is required to validate rules under sections 6, 8 and 9.

Sanction to rules under sections 6, 8 and 9.

**11.** No person shall manufacture spirits after the Native process except under license from the Collector.

Prohibition unlicensed manufacture of country-spirits.

### III.—Sale of Spirits, Fermented Liquor and Intoxicating Drugs.

**12.** Spirituous liquors passed from distilleries worked according to the English method, fermented liquors manufactured at a licensed brewery, and spirituous and fermented liquors imported either by land or by sea, shall not be sold except under license from the Collector.

English spirits and fermented liquor not to be sold without license.

**13.** Persons taking out licenses for the wholesale vend of spirituous and fermented liquors as aforesaid shall pay, for every such license, such sum as the Chief Revenue-Authority from time to time prescribes.

Fee for wholesale-license.

The license shall be current only during the official year, and in the district in which it is granted.

But travelling merchants may obtain, under such rules and restrictions as the Chief Revenue-Authority from time to time prescribes, a general license authorizing them to sell by wholesale, in any district which they may visit in the course of their travel, without taking out a fresh license for that district.

**14.** Persons taking out licenses for the retail-sale of spirituous and fermented liquors as aforesaid shall pay for every such license such fee or tax as the Chief Revenue-Authority fixes, and such fee or tax shall be payable at such periods as the said Authority directs.

Fee for retail-license.

What to be held a retail-sale.

Any sale of spirituous or fermented liquors as aforesaid, in less quantity than two imperial gallons or one dozen of quart bottles, shall be held to be a retail-sale.

Country-spirits and drugs not to be sold without license.

**15.** No person shall sell spirits manufactured by the Native process, or tárí, or pachwáí, or any intoxicating drug, except under license from the Collector.

Tárí to be deemed a fermented liquor.

**16.** All the provisions relating to the sale or possession of fermented liquors contained in the following sections apply to the sale or possession of tárí, whether in a fermented state or otherwise; and all tárí, both fresh and fermented, is included in the expression "fermented liquors" as used in the following sections.

Proviso.

**17.** Provided that the Local Government may suspend the operation of all the provisions relating to tárí contained in this Act, with respect to any district in which the consumption of tárí in a fermented state is inconsiderable; and thereupon tárí may be possessed and sold without license in such district, notwithstanding anything contained in this Act.

**18.**—[*Repealed by Act No. I of 1878.*]

Sale of more than specified quantities of country-spirits, &c., prohibited.

**19.** Except for the supply of licensed vendors, or under a special order from such officer as the Local Government appoints in this behalf, country-spirits, tárí and pachwáí, and intoxicating drugs shall not be sold in larger quantities than are hereunder specified—

country-spirits, one ser;

tárí or pachwáí, four sers;

gánja or bháng, or any preparation or admixture thereof, one quarter of a ser;

charas or any preparation or admixture thereof, five tolas weight;

and the sale of any such quantity as is herein allowed shall be deemed to be a retail-sale within the meaning of this Act.

Restriction of sale of gánja and bháng.

**20.** No cultivator of the plants producing gánja or bháng shall sell any gánja or bháng to any one other than (*a*) a person licensed under section 15 to sell the same, or (*b*) a person duly authorized to purchase the same by pass or license from the Collector.

## IV.—Duties.

Rate of duty to be levied on English spirits.

**21.** A duty shall be levied on spirits manufactured at distilleries worked according to the English method, at the rate of three rupees the imperial gallon of the strength of London-proof, to be augmented or reduced in proportion to the strength of the spirit.

No spirit shall be removed from any such distillery or the warehouses connected therewith, upon which the aforesaid duty has not been paid, or for the

duty chargeable on which a bond has not been executed as hereinafter provided.

For all spirits removed upon payment of duty or under bond, passes shall be issued by the Collector, which shall specify

(*a*) the quantity and strength of the spirit,

(*b*) the place of its destination,

(*c*) the person to whom it is consigned, and

(*d*) whether the duty has been paid or secured by bond.

Nothing in the former part of this section applies to British Burma.

Spirits from foreign territory subject to duty.

**22.** Spirituous liquors manufactured at any place in India beyond the limits of British India, shall, on passing such limits subject to this Act, be charged with the duty prescribed for proof-spirits in section 21:

and any person found in possession of any such liquors, without a pass from the Collector certifying the payment of such duty, shall forfeit for every such offence a sum not exceeding two hundred rupees; and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

Duty on country-spirits manufactured at distilleries established by Collector.

**23.** A duty shall be levied on spirits manufactured in distilleries established under section 7 at such rate as the Chief Revenue-Authority, with the sanction of the Local Government, may from time to time prescribe.

Duty on retail-sale of country-spirits, &c.

**24.** Whenever a license for the retail-sale of country-spirits, tárí, pachwáí or intoxicating drugs is granted under this Act, the Collector may demand, in consideration of the privilege granted, such tax or duty, or a tax or duty adjusted on such principles, as may from time to time be fixed by the Chief Revenue-Authority.

Such tax or duty shall be specified in the license, and shall be payable at such periods as the said Authority may direct.

The Collector may grant special licenses for the sale of unfermented tárí only, at those periods of the year when the fresh juice is in request: fees may be demanded for such special licenses at a rate for each license to be fixed from time to time by the Chief Revenue-Authority; and the vendors shall not be subject to any other tax or duty in respect of such sale.

## V.—Farm of Duties.

Power to farm out duties.

**25.** The Collector may, with the sanction of the Chief Revenue-Authority let in farm, for any period not exceeding five years, the duties leviable on the retail-sale of spirituous or fermented liquors, or intoxicating drugs, or any description of such liquors or drugs in any district or division of a district.

Tenders for farm.

**26.** The Chief Revenue-Authority may prescribe rules—

(*a*) for the invitation and acceptance of tenders for such farms;

(*b*) for the requisition of security for the due fulfilment of the engagements entered into by the farmers, and

(*c*) as to the form and conditions of the lease.

Any breach of such conditions shall render the lease liable to annulment.

Farmer to make arrangements with local manufacturers and vendors.

**27.** When the duties leviable on any of the articles above enumerated are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm;

and all the fines and forfeitures hereinafter prescribed, for the unlawful manufacture, sale or possession of any such article, shall be incurred by all persons manufacturing, selling or possessing the same without license or authority from the farmer.

List of licenses granted by farmer to be filed.

**28.** Every such farmer shall file in the Collector's office a list of all the licenses granted by him in such form as may be prescribed by the Chief Revenue-Authority.

Restrictions as to grant of licenses.

The Collector, with the sanction of the said Chief Revenue-Authority, may, before entering into engagements for any such farm, make such reservations or restrictions with respect to the grant of licenses as he thinks fit.

Lease may be cancelled.

**29.** The Collector may, with the sanction of the Chief Revenue-Authority, cancel any lease granted under this Act; or may, within the period of the lease, impose any new restriction on the farmer.

Compensation to farmers in certain cases.

If a lease be cancelled for any cause other than a breach on the part of the farmer of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he sustains thereby as the Chief Revenue-Authority thinks fit.

Recovery of arrears of tax or duty by farmers.

**30.** Every farmer of excise-revenue may use the same means and processes for the recovery of any arrear of tax or duty due to him from any authorized vendor, as may be lawfully used by zamíndárs and farmers of land for the recovery of arrears of rent due to them from their under-tenants.

## VI.—Licenses.

Certain licensees to execute counterpart and furnish security.

**31.** Every person taking out a license for the manufacture of country-spirits or for the retail-sale of spirituous or fermented liquors, or intoxicating drugs, shall execute a counterpart-engagement in conformity with the tenor of the license, and shall give such security for the performance of his engagement or make such deposit in lieu of security as the Collector may require.

Duration and renewal of license.

**32.** Unless otherwise especially authorized by the Chief Revenue-Authority, licenses for retail-sale shall be granted for the term of one year, and if

continued to the holders thereof, shall be formally renewed from year to year.

But every person holding a license, who may intend not to renew it, shall give notice of his intention to the Collector at least fifteen days before the year expires.

If such notice be not given, and the license be not recalled by the Collector, the license held, and engagement entered into, by every such person, shall remain in force as if the said license and engagement had been formally renewed.

Regulation of form of license.

**33.** The Chief Revenue-Authority may regulate the form and conditions of all licenses granted under this Act.

Power to recall license.

**34.** The Collector may recall or cancel any license granted under this Act, if the tax or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a breach of the peace or any other criminal offence.

If the Collector desire to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice and remit a sum equal to the tax for fifteen days, or, if notice be not given, shall make such further compensation for default of notice as the Commissioner or Chief Revenue-Authority directs.

Surrender of license.

**35.** Any licensed retail-vendor may surrender his license on giving one month's previous notice to the Collector, and paying such fine not exceeding the amount of the license-fees for six months as the Collector may adjudge.

If the Collector is satisfied that there is a sufficient reason for resigning a license, he may remit the fine so prescribed.

## VII.—Powers of Officers.

Collectors of land-revenue to have charge of excise.

**36.** The collection of the revenue arising from the manufacture of spirits, and the sale of spirits and spirituous and fermented liquors and intoxicating drugs, shall be ordinarily under the charge of the Collectors of land-revenue, who shall perform the duties connected therewith under the control and direction of the Commissioners of Revenue and of the Chief Revenue-Authority.

But the Local Government may appoint any other person to be superintendent of excise-revenue in any district or place, and any person so appointed shall exercise, in such district or place, all the powers and authority conferred by this Act on the Collector of land-revenue; and the Collector of land-revenue shall cease to exercise such powers and authority in such district or place during the continuance of such appointment.

Power to appoint Com-

**37.** The Local Government may also appoint a Commissioner or Commissioners for the control and direction of the officers having charge of the excise-

missioners of excise.

revenue in any district or districts; and when such appointment is made the Commissioner of excise shall exercise within such district or districts the powers and authority conferred by this Act on Commissioners of revenue, and the Commissioners of revenue shall cease to exercise such powers and authority in the said district or districts during the continuance of such appointment.

Collectors may appoint excise-officers.

**38.** Collectors may appoint dároghas, jamadárs, peons, surveyors, gaugers and other officers, for the collection of the excise-revenue and for the prevention of smuggling, and the officers so appointed shall, in addition to their ordinary designations, be styled excise-officers.

Tahsíldárs may be excise-dároghas.

**39.** In districts where there are tahsíldárs and other local officers for the collection of the land-revenue, the office of excise-dárogha may be united with that of tahsíldár or any of such local officers, and the said officers, together with the officers subordinate to them, shall be deemed to be excise-officers within the meaning of this Act.

Power to regulate supply of tárí and intoxicating drugs to licensed vendors.

**40.** The Chief Revenue-Authority may regulate the mode in which tárí shall be supplied to licensed vendors of the same; and may frame rules for the grant of licenses or passes to persons purchasing, transporting or storing gánja, bháng or charas for the supply of the licensed vendors of those drugs.

Such Authority may also place the cultivation, preparation and store of such drugs under such supervision as may be deemed necessary to secure the duty leviable thereon.

Recovery of arrears of tax or duty.

**41.** The Collector may recover any arrear of tax or duty due on account of any license granted under this Act,

or any arrear due from any farmer of excise-revenue,

by distress and sale of the moveable property of the person from whom the arrear is due or of his surety, or by any other process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties.

Power of excise-officers to inspect shops.

**42.** Any excise-officer may enter and inspect at any time by day or by night the shop or premises in which any licensed manufacturer or retail-vendor carries on the manufacture of country-spirits, or the sale of spirituous or fermented liquors or intoxicating drugs.

And to arrest persons carrying spirits, &c., liable to confiscation.

**43.** Any excise-officer may stop and detain any person carrying any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act;

and may seize the liquors or drugs with the vessels, packages or coverings in which they are contained, and the animals and conveyances used in carrying them;

and may also arrest the person in whose possession such liquors or drugs are found.

**44.** Any excise-officer above the rank of a jamadár of peons may arrest any person having in his possession an unlicensed still, or any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act, or engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, And to arrest unlicensed distillers, &c.

and may seize such still with the materials for working it, and all such liquors and drugs. And to seize stills.

**45.** Whenever any excise-officer above the rank of a jamadár of peons has reason to believe, from information given by any person (which information shall be taken down in writing), And to search on information of illicit manufacture or possession.

that spirits are unlawfully manufactured,

or that any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act are kept or concealed in any house, boat or other place,

such officer may, between sunrise and sunset (but always in the presence of an officer of Police not being under the grade of a jamadár), enter into any such house, boat or place;

and in case of resistance may break open any door, and force and remove any other obstacle to such entry;

and may seize and carry away all stills and materials used in the manufacture of such spirits and all such liquors and drugs;

and may also arrest the occupier of the house, boat or place with all other persons concerned in the manufacture of such spirits, or in the keeping and concealing of such liquors or drugs.

**46.** The powers of seizure, search and arrest, given to excise-officers by the three last preceding sections, may, in regard to the seizure and search for contraband opium and the arrest of persons found in possession thereof, be exercised also by the officers of the Police, Customs and Revenue Departments, according to their respective grades; Police, customs and revenue-officers may exercise powers of excise-officers.

and the Local Government may confer on the officers of those departments, or of any of them, like powers with respect to the seizure of, and search for, spirituous and fermented liquors and intoxicating drugs of every description, and the arrest of persons found in possession thereof.

All such officers when so empowered shall be deemed to be excise-officers within the meaning of this Act.[a]

**47.** Whenever an excise-officer arrests any person, Excise-officer to report arrests, &c.,

or seizes any still, or any liquors or drugs liable to confiscation under this Act,

[a] Repealed, as far as it relates to opium, by Act No. I of 1878.

or enters any house, boat or place for the purpose of searching for any such illicit articles,

he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest or seizure, or search, to his official superior, and, unless acting under the warrant of the Collector, shall carry the person arrested, or the illicit article seized, with all convenient despatch to the Magistrate for trial or adjudication.

and to take person arrested to Magistrate.

Collector may issue warrant of arrest in certain cases.

**48.** The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing, or from the proceedings in any other case, to be engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, or to have in his possession any such liquors or drugs liable to confiscation under this Act.

Collector may issue search-warrant.

**49.** The Collector may issue his warrant for the search of any house, boat or place in which, upon any of the grounds mentioned in the last preceding section, he has reason to believe that spirits are unlawfully manufactured, or that spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act are kept or concealed.

Such warrant may be executed by any officer above the rank of a jamadár of peons, at the time and in the manner prescribed in section 45.

Special warrant authorizing search between sunset and sunrise.

Whenever the Collector thinks that the search should be made between sunset and sunrise on any particular day, he shall issue a warrant specially authorizing the search to be so made. Such warrant may be executed by any officer above the rank of a jamadár of peons, in the manner prescribed in section 45, and shall cease to be in force at sunrise on the day next following.

Procedure after arrest or seizure.

**50.** Whenever any person is arrested, or any articles are seized, under the warrant of a Collector, the Collector, after such inquiry as he thinks necessary, shall send the person arrested or the articles seized to the Magistrate, or shall order the immediate discharge of such person or the release of such articles.

Police to assist excise-officers.

**51.** All Police-officers are required to aid the excise-officers in the due execution of this Act, upon notice given or request made by such officers.

## VIII.—Penalties.

For constructing or working distillery without license.

**52.** Whoever constructs or works a distillery after the English method, without a license from the Collector, shall for every such offence be punished with fine not exceeding one thousand rupees ;

and all spirits manufactured at any such distillery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

For non-observance of

**53.** Every proprietor or manager of a licensed distillery constructed and worked after the English method, who omits to furnish any notice or any

statement or list required by the rules prescribed by the Chief Revenue-Authority under section 6, or wilfully does anything in contravention of the said rules, shall for every such offence be punished with fine not exceeding two hundred rupees;

rules prescribed by Chief Revenue-Authority.

and if any such offence be committed a second time with respect to the same distillery, the Collector may withdraw the license granted for the working of such distillery.

**54.** Whoever removes or attempts to remove, from any licensed distillery constructed and worked after the English method, any spirituous liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any spirituous liquors for which the Collector has not issued a pass, shall for every such offence be punished with fine not exceeding one thousand rupees;

For removing spirituous liquors without payment of duty.

and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

If it appear to the Collector that the offence was committed with the consent or knowledge of the proprietor or manager, the Collector may withdraw the license granted for the construction and working of the distillery from which such liquors have been removed or attempted to be removed.

**55.** Whoever re-lands, or attempts to re-land, any spirituous liquors shipped for exportation, without a special pass from the Collector of revenue at the place of exportation, shall for every such offence be punished with fine not exceeding five hundred rupees;

For irregular re-land of spirituous liquors.

and the liquors, together with the casks and vessels containing the same, and the carts, boats and animals employed in carrying them, shall be liable to confiscation.

**56.** Whoever constructs or works a brewery, or manufactures malt-liquor, without a license, shall for every such offence be punished with fine not exceeding five hundred rupees.

For working brewery without license.

**57.** Every person licensed to manufacture country-spirits or to sell spirituous or fermented liquors or intoxicating drugs, who fails to produce his license on the demand of any excise-officer, or who commits any act in breach of any of the conditions of his license not otherwise provided for in this Act, shall for every such offence be punished with fine not exceeding fifty rupees.

For refusing to produce license.

For breach of license.

**58.** Every licensed retail-vendor, who sells any larger quantity of spirituous or fermented liquors, or intoxicating drugs, than is allowed to be sold by retail by this Act, and every licensed wholesale vendor who makes a retail-sale, shall for every such offence be punished with fine not exceeding two hundred rupees:

For sale in contravention of license.

Provided that nothing in this section shall be held to prohibit the grant

Proviso.

to the same person of both wholesale and retail-licenses, subject to the provisions of this Act.

For permitting drunkenness, &c., in shop.

59. Every person licensed to sell spirituous or fermented liquors, or intoxicating drugs, who permits drunkenness, riot or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing apparel or other effects in barter for liquors or drugs, shall for every such offence be punished with fine not exceeding two hundred rupees.

For conveying country-spirits from distillery without pass, &c.

60. Whoever conveys or attempts to convey any country-spirits from a distillery established under section 7 without a pass, or exceeding the quantity for which a pass has been granted,

or introduces or attempts to introduce any country-spirits manufactured at another place into the limits fixed for the consumption of spirits manufactured at such distillery, without a special pass from the Collector,

shall for every such offence be punished with fine not exceeding five hundred rupees.

For contravening rules prescribed by Chief Revenue-Authority.

61. Whoever wilfully contravenes any rule prescribed by the Chief Revenue-Authority for the management of a distillery established as aforesaid, otherwise than as provided for in the last preceding section, shall for every such offence be punished with fine not exceeding fifty rupees.

For illicit manufacture or sale of country-spirits, &c.

62. Every person other than a licensed manufacturer who manufactures any country-spirits,

and every person other than a licensed vendor, or a person duly authorized to supply licensed vendors, who sells any spirituous or fermented liquors, or intoxicating drugs,

and every person authorized to supply licensed vendors, who sells any such liquors or drugs to any person other than a licensed vendor,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Proviso.

Nothing in this section or in section 12 applies to the sale by auction of any spirituous liquors, wines or beer purchased by any person for his private use and so disposed of upon his quitting a station or after his decease.

For illegal possession of country-spirits, &c.

63. Every person, other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendors, who has in his possession any larger quantity of country-spirits, or tárí or pachwáí, or intoxicating drugs, than may legally be sold by retail under the provisions of section 19,

or transports by land or by water, or has in his possession, any spirituous liquors made at a distillery worked according to the English method, or any imported spirituous or fermented liquors, in larger quantity than two gallons, without a pass from the Collector or other officer duly empowered in that behalf,

shall for every such offence be punished with fine not exceeding two hundred rupees;

and the liquors and drugs, together with the vessels, packages and coverings in which they are found, and the animals and conveyances used in carrying them, shall be liable to confiscation:

Provided, that nothing in this section extends to any spirituous liquors, wines or beer, purchased by any person for his private use and not for sale. Proviso.

**64.** The provisions of the two last preceding sections, so far as they relate to the sale and possession of fermented liquors, do not apply to the sale and possession of tárí the produce of the date-tree, when supplied or used for the manufacture of gúr or molasses; and the provisions of the said sections relating to the sale and possession of intoxicating drugs do not apply to the sale and possession of gánja or bháng by the cultivators of the plants which produce those drugs respectively. Exceptions as to tárí, gánja and bháng.

Every such cultivator selling gánja or bháng in breach of the prohibition contained in section 20, shall for every such offence be punished with fine not exceeding five hundred rupees.

**65, 66, 67.**—[*Repealed by Act No. I of 1878.*]

**68.** Every proprietor, farmer, tahsíldár, gumáshta or other manager of land, who authorizes or connives at the manufacture of country-spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, shall for every such offence be punished with fine not exceeding five hundred rupees. For conniving at illicit manufacture or sale of spirits, &c.

**69.** Any Police-officer who, without lawful excuse, neglects or refuses to assist as aforesaid, and any dárogha or other officer in charge of a Police-station, who, on application made by an excise-officer under section 45, fails to attend a search himself, or to depute a subordinate officer not being below the grade of a jamadár, shall for every such offence be punished with fine not exceeding five hundred rupees. On Police neglecting to assist.

**70.** Whoever maliciously gives false information against any person as being engaged in the unlawful manufacture of spirits, or as selling or having in his possession any spirituous or fermented liquors or intoxicating drugs in contravention of this Act, and so procures that such person be arrested or that any house, boat or other place be searched, to the injury or annoyance of such person, or any other person whatsoever, shall for every such offence be punished with fine not exceeding five hundred rupees, or with imprisonment for a term not exceeding six months, or with both. For maliciously giving false information.

Such fine or any part thereof may be paid to the person aggrieved.

**71.** Any excise-officer who, without reasonable ground of suspicion, searches or causes to be searched any house, boat or other place, For vexatious search or seizure.

or vexatiously and unnecessarily seizes the moveable property of any person, on the pretence of seizing or searching for any spirituous liquors or intoxicating drugs liable to confiscation under this Act,

or vexatiously and unnecessarily arrests any person,

or commits any other excess not required for the execution of his duty,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Such fine or any part thereof may be paid to the person aggrieved.

On excise-officers for delay in reporting arrest, &c., or in carrying person arrested to Magistrate.

**72.** Any excise-officer who neglects to report the particulars of an arrest, seizure or search within twenty-four hours thereafter, or delays carrying to the Magistrate or Collector, as the case may be, any person arrested, or any illicit articles seized, under this Act, shall for every such offence be punished with fine not exceeding two hundred rupees.

For conniving at escape of persons arrested, &c.

**73.** Any excise-officer unlawfully releasing or conniving at the escape of any person arrested under this Act, or conniving at the manufacture of spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, or by any licensed person contrary to the terms of the license, or acting in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the excise-revenue defrauded;

and any officer invested with local jurisdiction, authorizing or conniving at the establishment of any unlicensed shop for the sale of such liquors or drugs as aforesaid in any place subject to his control,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Adjudication of penalties and seizures.

**74.** All fines leviable for offences against this Act, and all seizures of goods liable to confiscation under this Act, shall be adjudged by the Magistrate on the information of the Collector or any excise-officer:

Provided that no such information shall be necessary in any case of complaint preferred to a Magistrate under section 59, 69, 70, 71, 72 or 73.

Procedure in cases other than those of persons sent in custody by Collector or excise-officer.

**75.** In all cases in which complaint or information is preferred to a Magistrate of offences committed against this Act, not being cases in which persons are sent in custody by a Collector or excise-officer, the Magistrate shall issue a summons requiring the attendance of the person accused.

The rules contained in the Code of Criminal Procedure, for the trial of cases before a Magistrate and for appeal against orders passed by a Magistrate, shall apply to trials under this Act:

Provided that no complaint or information of an offence against this Act

shall be admitted, unless it be preferred within six months after the commission of the offence to which the complaint or information refers.

**76.** Whenever any person is convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty provided for such offence, to imprisonment for a term not exceeding six months.

Punishment on second or subsequent conviction.

A like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

**77.** Every person imprisoned for an offence under section 59, 69, 70, 71, 72 or 73 shall be confined in the criminal jail, and every person imprisoned for an offence under any other section shall be confined in the civil jail.

Confinement in civil jail.

**78.** All things confiscated under this Act, shall be disposed of by the Collector by public sale.

Disposal of confiscated goods.

**79.** One-half of all fines levied from persons convicted of the unlawful manufacture of spirits, or of the unlawful sale or possession of spirituous or fermented liquors or intoxicating drugs, and one-half of the proceeds from sale of all confiscated articles shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender.

Disposal of fines, &c., as rewards.

The other half of such fines and forfeitures, and the other half of the proceeds of sale, shall be given to the informer.

If in any case the fine or forfeiture is not realized, the Chief Revenue-Authority may grant such reasonable reward, not exceeding two hundred rupees, as may seem fit; and such Authority may direct by general order what classes of excise-officers shall receive rewards, and what classes shall have no title to share therein.

Rewards where no fine is realized.

**80.** All fines levied under this Act, the disposal of which is not specially provided for, shall belong to Government.

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But the Chief Revenue-Authority may appropriate any portion thereof, not exceeding one-half, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act.

Special rewards to informers.

## IX.—Military Cantonments.

**81.** Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirits, or for the sale of spirituous and fermented liquors, shall be granted, nor shall the duties leviable upon such spirits and liquors be let in farm, unless with the knowledge and consent of the commanding officer;

Manufacture and sale of spirits, &c., in cantonments.

and upon his requisition any license which has been granted, either by the Collector or by a farmer, within such distance or limits, shall be immediately withdrawn.

Arrest or search within cantonments.

82. In all other respects, the foregoing provisions of this Act shall have effect within such limits or distance:

Provided that, when arrest or search is to be made within the limits of any cantonment, the Collector or other officer authorized under this Act to make arrest or search shall, whenever it may be practicable, give previous notice to the commanding officer, and in all other cases shall report the arrest or search to such commanding officer with as little delay as possible:

Provided also that nothing herein contained shall affect the provisions of Act No. III of 1880[a] (*to amend the law relating to Cantonments*).

## X.—Miscellaneous.

Drawback on exportation.

83. A drawback of the duty levied under Part IV of this Act on spirits manufactured after the English method, and exported by sea to Aden or any port not situate in British India, shall be allowed by the Collector of Customs at the port of exportation:

Provided that the exportation be made within one year from the date of the payment of duty under this Act, and that the spirits, when brought to the Custom-house, be accompanied by the pass in which such payment is certified.

The amount of drawback to be allowed upon spirits for which duty has been paid shall be regulated according to the strength and quantity of the said spirits, as ascertained by such proof and gauge.

The quantity of spirits, for which credit is to be given in the settlement of any bond, shall be determined in the same manner.

Drawback when not allowed.

84. No drawback shall be allowed on spirits exported to any port in British India except Aden, or on spirits shipped as stores.

Recovery of sums due under bond.

85. Any sum remaining due to Government upon the settlement of a bond executed according to the provisions of this Act, may be recovered by any process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties, or by suit on the bond in any Court of competent jurisdiction.

Appeals from orders and sentences under Act.

86. All orders passed by a Collector under this Act shall be appealable to the Commissioner in the usual manner under the rules in force relative to appeals from the orders of Collectors.

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[a] See Act No. III of 1880, sec. 2.

## ACT No. XXII OF 1871.

*Received the Governor General's assent on the 1st of August, 1871.*

# An Act to authorize the extension of the Chaukídárí Act to places where there is no Jamadár of Police.

WHEREAS by Act No. XX of 1856 (*to make better provision for the appointment and maintenance of Police chaukídárs in cities, towns, stations, suburbs and bázárs in the Presidency of Fort William in Bengal*), section 2, the Local Government is restrained from extending that Act to any city, town, suburb or bázár, unless there be therein (or in some other city, town, suburb or bázár with which the same may be united as thereinafter provided) a Police-station under an officer of a grade not below that of a jamadár; and whereas it is expedient to remove such restriction and in other respects to amend the said Act; It is hereby enacted as follows:— Preamble.

1. Instead of the second section of the said Act, the following shall be read:— Amendment of section 2, Act No. XX of 1856.

[See *supra, p.* 31.]

2. Instead of section eleven of the said Act, the following shall be read:— Amendment of section 11.

[See *supra, p.* 32.]

3. Instead of section thirty-eight of the said Act, the following shall be read:— Amendment of section 38.

[See *supra, p.* 37.]

4. In the forty-first section of the said Act, instead of the words "On the 20th of each calendar month," there shall be read the words "On the tenth day after the date fixed for the payment of instalments of the tax." Amendment of section 41.

5. In appendix A, at the end of the first paragraph, the words "and the aggregate amount assessed shall not exceed the average rate of two annas per mensem for each house, shop or building in the district," shall be omitted. Amendment of appendices A and C.

In appendix C, the words "the first payment on the 10th day of the month next succeeding the date of this notification, and every subsequent payment on or before the 10th day of each succeeding month," shall be omitted.

6. This Act shall be read with, and taken as part of, the said Act XX of 1856, but shall not take effect within the territories subject to the Lieutenant-Governor of Bengal. Construction. Saving of Bengal from operation of Act.

# THE NORTHERN INDIA CANAL AND DRAINAGE ACT, 1873.

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## ACT No. VIII OF 1873.

*Received the Governor General's assent on the 11th of February, 1873.*

## An Act to regulate Irrigation, Navigation and Drainage in Northern India.

WHEREAS, throughout the territories to which this Act extends, the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels, and of all lakes and other natural collections of still water; and whereas it is expedient to amend the law relating to irrigation, navigation and drainage in the said territories; It is hereby enacted as follows:— Preamble.

PART I.—PRELIMINARY.

1. This Act may be called "The Northern India Canal and Drainage Act, 1873": Short title.

It extends to the territories for the time being respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh and the Central Provinces; and applies to all lands whether permanently settled, temporarily settled, or free from revenue. Local extent.

2.—[*Repealed by Act No. XII of 1873.*]

3. In this Act—unless there be something repugnant in the subject or context— Interpretation-clause.

(1) "Canal" includes— "Canal."

(*a*) all canals, channels and reservoirs constructed, maintained or controlled by Government for the supply or storage of water;

(*b*) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;

(*c*) all water-courses as defined in the second clause of this section;

(*d*) any part of a river, stream, lake or natural collection of water, or natural drainage-channel, to which the Local Government has applied the provisions of Part II of this Act;

"Water-course."

(2) "Water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to any such channel;

"Drainage-work."

(3) "Drainage-work" includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns;

"Vessel."

(4) "Vessel" includes boats, rafts, timber and other floating bodies;

"Commissioner."

(5) "Commissioner" means a Commissioner of a division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner;

"Collector."

(6) "Collector" means the head revenue-officer of a district, and includes a Deputy Commissioner or other officer appointed under this Act to exercise all or any of the powers of a Collector;

"Canal-officer."

(7) "Canal-officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof;

"Superintending Canal-officer."

"Superintending Canal-officer" means an officer exercising general control over a canal or portion of a canal;

Divisional Canal-officer."

"Divisional Canal-officer" means an officer exercising control over a division of a canal;

"Sub-divisional Canal-officer."

"Sub-Divisional Canal-officer" means an officer exercising control over a sub-division of a canal.

"District."

(8) "District" means a district as fixed for revenue purposes.

Power to appoint officers.

4. The Local Government may from time to time declare, by notification in the official Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

All officers mentioned in section three, clause (7), shall be respectively subject to the orders of such officers as the Local Government from time to time directs.

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## PART II.—Of the Application of Water for Public Purposes.

Notification to issueh wen water-supply

5. Whenever it appears expedient to the Local Government that the water of any river or stream flowing in a natural channel, or of any lake or other

natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal or drainage-work,

is to be applied for public purposes.

the Local Government may, by notification in the official Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of canal-officer.

**6.** At any time after the day so named, any Canal-officer, acting under the orders of the Local Government in this behalf, may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Notice as to claims for compensation.

**7.** As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places, stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section eight may be made before him.

Damage for which compensation shall not be awarded.

**8.** No compensation shall be awarded for any damage caused by—

(*a*) stoppage or diminution of percolation or floods;

(*b*) deterioration of climate or soil;

(*c*) stoppage of navigation, or of the means of drifting timber or watering cattle;

(*d*) displacement of labour.

Matters in respect of which compensation may be awarded.

But compensation may be awarded in respect of any of the following matters:

(*e*) Stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the said notification:

(*f*) Stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification:

(*g*) Stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification:

(*h*) Damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1877, Part IV:

(*i*) Any other substantial damage, not falling under any of the above clauses (*a*), (*b*), (*c*) or (*d*), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

In determining the amount of such compensation, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of

the property in respect of which compensation is claimed; and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual nett profits of such property, caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clause (*e*), (*f*) or (*g*) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant or under the Indian Limitation Act, 1877, Part IV.

And no right to any of the advantages referred to in clauses (*a*), (*b*) and (*c*) of this section shall be acquired, as against the Government, under the same Part.

Limitation of claims.

**9.** No claim for compensation for any such stoppage, diminution or damage shall be made after the expiration of one year from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Enquiry into claims and amount of compensation.

**10.** The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant; and sections nine to twelve (inclusive), fourteen and fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, fifty-seven, fifty-eight and fifty-nine of the Land Acquisition Act, 1870,[a] shall apply to such inquiries:

Provided that, instead of the last clause of the said section twenty-six, the following shall be read: "The provisions of this section and of section eight of the Northern India Canal and Drainage Act, 1873, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded."

Abatement of rent on interruption of water-supply.

**11.** Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed under section eight, takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

Enhancement of rent on restoration of water-supply.

**12.** If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Such enhancement shall be on account only of the restored water-supply,

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[a] See General Acts, vol. II, p. 1226.

and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

**13.** All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of, Compensation when due.

and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same. Interest.

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## PART III.—Of the Construction and Maintenance of Works.

**14.** Any Canal-officer or other person acting under the general or special order of a Canal-officer, Power to enter and survey, &c.

may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon;

and dig and bore into the sub-soil;

and make and set up suitable land-marks, level-marks and water-gauges;

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said canal-officer;

and, where otherwise such inquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle; Power to clear land.

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal: Power to inspect and regulate water-supply.

Provided that, if such Canal-officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so. Notice of intended entry into houses.

In every case of entry under this section, the Canal-officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section; and in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final. Compensation for damage caused by entry.

**15.** In case of any accident happening or being apprehended to a canal, Power to

enter for repairs and to prevent accidents.

any Divisional Canal-officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Compensation for damage to land.

In every such case, such Canal-officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal-officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the Local Government had directed the occupation of the lands under section forty-three of the Land Acquisition Act, 1870.

Application by persons desiring to use canal-water.

**16.** Any persons desiring to use the water of any canal, may apply in writing to the Divisional or Sub-Divisional Canal-officer of the division or sub-division of the canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicants.

Contents of application.

The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Canal-officer, and how the payment is to be made.

Liability of applicants for cost of works.

When the assent of the Superintending Canal-officer is given to such application, all the applicants shall, after the application has been duly attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

Recovery of amount due.

Any amount becoming due under the terms of such application, and not paid to the Divisional Canal-officer, or the person authorized by him to receive the same, on or before the date on which it becomes due, shall, on the demand of such officer, be recoverable by the Collector as if it were an arrear of land-revenue.

Government to provide means of crossing canals.

**17.** There shall be provided, at the cost of Government, suitable means of crossing canals constructed or maintained at the cost of Government, at such places as the Local Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Collector shall cause inquiry to be made into the circumstances of the case, and if he thinks that the statement is established, he shall report his opinion thereon for the consideration of the Local Government, and the Local Government shall cause such measures in reference thereto to be taken as it thinks proper.

Persons

**18.** The Divisional Canal-officer may issue an order to the persons using

any water-course to construct suitable bridges, culverts or other works for the passage of the water of such water-course across any public road, canal or drainage-channel in use before the said water-course was made, or to repair any such works.

using water-course to construct works for passing water across roads, &c.

Such order shall specify a reasonable period within which such construction or repairs shall be completed;

If they fail, Canal-officer may construct,

and if, after the receipt of such order, the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the said Canal-officer, he may, with the previous approval of the Superintending Canal-officer, himself construct or repair the same;

and if the said persons do not, when so required, pay the cost of such construction or repairs as declared by the Divisional Canal-officer, the amount shall, on the demand of the Divisional Canal-officer, be recoverable from them by the Collector as if it were an arrear of land-revenue.

and recover cost.

**19.** If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Sub-Divisional Canal-officer, on receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that, on the expiration of a fortnight from the service, he will investigate the case; and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit.

Adjustment of claims between persons jointly using water-course.

Such order shall be appealable to the Commissioner, whose order thereon shall be final.

Any sum directed by such order to be paid within a specified period may, if not paid within such period, and if the order remains in force, be recovered by the Collector, from the person directed to pay the same, as if it were an arrear of land-revenue.

Recovery of amount found due.

**20.** Whenever application is made to a Divisional Canal-officer for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed; and, after making enquiry on such day, the Divisional Canal-officer shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

Supply of water through intervening water-course.

When such officer determines that a supply of canal-water may be

conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal-officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal-officer may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application for construction of new water-course.

**21.** Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal-officer, stating—

(1) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;

(2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for acquiring such right;

(3) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

Procedure of Canal-officer thereupon.

**22.** If the Divisional Canal-officer considers—

(1) that the construction of such water-course is expedient, and

(2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section twenty-eight;

and, upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every district in which any part of such land is situate.

Application for transfer of existing water-course.

**23.** Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Divisional Canal-officer, stating—

(1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;

(2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for procuring such transfer;

(3) that he is able to defray the cost of such transfer.

If the Divisional Canal-officer considers—

Procedure thereupon.

(*a*) that the said transfer is necessary for the better management of the irrigation from such water-course, and

(*b*) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section twenty-eight in respect of such transfer;

and, upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Collector of every district, through which such water-course passes.

Objections to construction or transfer applied for.

**24.** Within thirty days from the publication of a notice under section twenty-two or section twenty-three, as the case may be, any person interested in the land or water-course to which the notice refers may apply to the Collector by petition, stating his objection to the construction or transfer for which application has been made.

The Collector may either reject the petition or may proceed to inquire into the validity of the objection, giving previous notice to the Divisional Canal-officer of the place and time at which such inquiry will be held.

The Collector shall record in writing all orders passed by him under this section and the grounds thereof.

When applicant may be placed in occupation.

**25.** If no such objection is made, or (where such objection is made) if the Collector over-rules it, he shall give notice to the Divisional Canal-officer to that effect, and shall proceed forthwith to place the said applicant in occupation of the land marked out or of the water-course to be transferred, as the case may be.

Procedure when objection is held valid.

**26.** If the Collector considers any objection made as aforesaid to be valid, he shall inform the Divisional Canal-officer accordingly; and, if such officer sees fit, he may, in the case of an application under section twenty-one, alter the boundaries of the land so marked out, and may give fresh notice under section twenty-two; and the procedure hereinbefore provided shall be applicable to such notice, and the Collector shall thereupon proceed as before provided.

Procedure when Canal-officer disagrees with Collector.

**27.** If the Canal-officer disagrees with the Collector, the matter shall be referred for decision to the Commissioner.

Such decision shall be final, and the Collector, if he is so directed by such decision, shall, subject to the provisions of section twenty-eight, cause the said applicant to be placed in occupation of the land so marked out or of the water-course to be transferred, as the case may be.

Expenses to be paid by applicant before receiving occupation.

**28.** No such applicant shall be placed in occupation of such land or water-course, until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Procedure in fixing compensation.

In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the Land Acquisition Act, 1870;[a] but he may, if the person to be compensated so desire, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

Recovery of compensation and expenses.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

Conditions binding on applicant placed in occupation.

**29.** When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest:—

*First.*—All works necessary for the passage across such water-course, of water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal-officer.

*Second.*—Land occupied for a water-course under the provisions of section twenty-two shall be used only for the purpose of such water-course.

*Third.*—The proposed water-course shall be completed to the satisfaction of the Divisional Canal-officer within one year after the applicant is placed in occupation of the land.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge,

*Fourth.*—the applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

*Fifth.*—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition,

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[a] See General Acts, vol. II, page 1226.

or until he has paid, by way of compensation for any injury done to the said land, such amount and to such persons as the Collector determines.

*Sixth.*—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent-due or assess the amount of such compensation; and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

If any of the rules and conditions prescribed by this section are not complied with,

or if any water-course constructed or transferred under this Act is disused for three years continuously,

the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

**30.** The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

Procedure applicable to occupation for extensions and alterations.

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## PART IV.—Of the Supply of Water.

**31.** In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the Local Government in respect thereof.

In absence of written contract, water-supply to be subject to rules.

**32.** Such contracts and rules must be consistent with the following conditions:—

Conditions as to—

(*a*). The Divisional Canal-officer may not stop the supply of water to any water-course, or to any person, except in the following cases:—

power to stop water-supply;

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the Local Government;

(2) whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom;

(3) within periods fixed from time to time by the Divisional Canal-officer:

(*b*). No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs,

claims to compensation in case of failure or

stoppage of supply;

alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal-officer considers necessary; but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorized by the Local Government:

claims on account of interruption from other causes;

(*c*). If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector may award to the petitioner reasonable compensation for such loss:

duration of supply;

(*d*). When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year:

sale or sub-letting of right to use canal-water;

(*e*). Unless with the permission of the Superintending Canal-officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use: Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water-course for the irrigation of the land held by such tenant:

transfer, with land, of contracts for water.

But all contracts made between Government and the owner or occupier of any immoveable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place:

No right acquired by user.

(*f*). No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Limitation Act, 1877, Part IV, nor shall Government be bound to supply any person with water, except in accordance with the terms of a contract in writing.

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## PART V.—Of Water-rates.

Liability when person using unauthorizedly cannot be identified.

**33.** If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occured cannot be identified,

the person on whose land such water has flowed if such land has derived benefit therefrom,

or, if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, to the charges made for such use.

Liability when water runs to waste.

**34.** If water supplied through a water-course be suffered to run to waste, and if, after inquiry by the Divisional Canal-officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

Charges recoverable in addition to penalties.

**35.** All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

Decision of questions under sections 33 and 34.

All questions under section thirty-three or section thirty-four shall be decided by the Divisional Canal-officer, subject to an appeal to the head revenue-officer of the district, or such other appeal as may be provided under section seventy-five.

Charge on occupier for water how determined.

**36.** The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly.

'Occupier's rate.'

A rate so charged shall be called the 'occupier's rate.'

'Owner's rate.'

**37.** In addition to the occupier's rate, a rate to be called the 'owner's rate' may be imposed, according to rules to be made by the Local Government, on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.

Amount of owner's rate.

**38.** The owner's rate shall not exceed the sum which, under the rules for the time being in force for the assessment of land-revenue, might be assessed on such land, on account of the increase in the annual value or produce thereof caused by the canal-irrigation. And for the purpose of this section only, land which is permanently settled or held free of revenue, shall be considered as though it were temporarily settled and liable to payment of revenue.

Owner's rate when not chargeable.

**39.** No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land-revenue at irrigation-rates, during the currency of such assessment.

When occupier is to pay both owner's rate and occupier's rate.

**40.** If such land is occupied by the owner,

or if it is occupied by a tenant whose rent is not liable to enhancement on the ground that the value of the produce of the land or the productive powers of the land has or have been increased by irrigation,

such owner or tenant shall pay the owner's rate as well as the occupier's rate.

Power to make rules for apportioning owner's rate.

**41.** In the case of a tenant with a right of occupancy, the Local Government shall have power to make rules for dividing the owner's rate between such tenant and his landlord, proportionately to the extent of the beneficial interest of each in the land.

When owner is to pay owner's rate.

**42.** If the owner of the land is not the occupier, but has power to enhance the rent of the occupier on the ground that the value of the produce or the productive powers of the land has or have been increased by irrigation;

or if, when the amount of rent was fixed, the land was irrigated from the canal,

the owner shall pay the owner's rate.

Effect of introduction of canal-irrigation on landlord's right to enhance.

**43.** If a revision of settlement is a ground for entertaining a suit for the enhancement of rent, the introduction of canal-irrigation into any land shall have the same effect on the landlord's right to re-enhance the rent of a tenant with a right of occupancy of such land, as if a revision of settlement had taken place, under which the revenue payable in respect of such land had been increased.

Water-rate by whom payable when charged on land held by several owners.

**44.** Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land, and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

*Recovery of Charges.*

Certified dues recoverable as land-revenue.

**45.** Any sum, lawfully due under this Part, and certified by the Divisional Canal-officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land-revenue.

Power to contract for collection of canal-dues.

**46.** The Divisional Canal-officer or the Collector may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person makes default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Collector under section forty-five; and if such sum or any part of it be still due by the

said third party, the sum or part so due may be recovered in like manner by the Collector from such third party.

**47.** The Collector may require the lambardár or person under engagement to pay the land-revenue of any estate, to collect and pay any sums payable under this Act by a third party, in respect of any land or water in such estate.

Lambardárs may be required to collect-canal-dues.

Such sums shall be recoverable by the Collector as if they were arrears of land-revenue due in respect of the defaulter's share in such estate;

and for the purpose of collecting such sums from the subordinate zamíndárs, raiyats or tenants, such lambardár or person may exercise the powers, and shall be subject to the rules, laid down in the law for the time being in force in respect to the collection by him of the rents of land or of shares of land-revenue.

The Local Government shall provide

(*a*) for remunerating persons collecting sums under this section; or

(*b*) for indemnifying them against expenses properly incurred by them in such collection; or

(*c*) for both such purposes.

**48.** Nothing in sections forty-five, forty-six or forty-seven applies to fines.

Fines excluded from sections 45, 46 47.

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## PART VI.—Of Canal-navigation.

**49.** Any vessel entering or navigating any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained, or both removed and detained, by the Divisional Canal-officer, or by any other person duly authorized in this behalf.

Detainer of vessels violating rules.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal-officer, with the approval of the Superintending Canal-officer, determines to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

Liability of owners of vessels causing damage.

**50.** Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, or, if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel.

Recovery of fines for offences in navigating canals.

**51.** If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the

Power to seize and detain vessel on

Failure to pay charges.

Divisional Canal-officer may seize and detain such vessel and the furniture thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to seize cargo or goods, if charges due thereon are not paid.

**52.** If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, is not paid on demand to the person authorized to collect the same, the Divisional Canal-officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Procedure for recovery of such charges after seizure.

**53.** Within a reasonable time after any seizure under section fifty-one or section fifty-two, the said Canal-officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named.

And if such claim be not so discharged, the said Canal-officer may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale:

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo or goods.

The residue of such furniture, cargo or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

Procedure in respect of vessels abandoned and goods unclaimed.

**54.** If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, be left unclaimed for a period of two months, the Divisional Canal-officer may take possession of the same.

The officer so taking possession may publish a notice that, if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel, contents, cargo or goods be not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

Disposal of proceeds of sale.

The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Divisional Canal-officer on account of the taking possession and sale, shall be made over to the owner of the same,

when his ownership is established to the satisfaction of the Divisional Canal-officer.

If the Divisional Canal-officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid, and the proceeds to be paid into the district-treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

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## PART VII.—Of Drainage.

Power to prohibit obstructions or order their removal.

**55.** Whenever it appears to the Local Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage-channel, such Government may, by notification published in the official Gazette, prohibit, within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or drainage-channel as is comprised within such limits, shall be held to be a drainage-work as defined in section three.

Power to remove obstructions after prohibition.

**56.** The Divisional Canal-officer, or other person authorized by the Local Government in that behalf, may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

If, within the time so fixed, such person does not comply with the order, the said Canal-officer may himself remove or modify the obstruction; and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

Preparation of schemes for works of improvement.

**57.** Whenever it appears to the Local Government that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof,

or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,

the Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

Powers of

**58.** The persons authorized by the Local Government to draw up such

persons employed on such schemes.

scheme may exercise all or any of the powers conferred on Canal-officers by section fourteen.

Rate on lands benefited by works.

**59.** An annual rate, in respect of such scheme, may be charged, according to rules to be made by the Local Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits :—

(1.) Six per cent. per annum on the first cost of the said works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate :

(2.) In the case of agricultural land, the sum which, under the rules then in force for the assessment of land-revenue, might be assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage-work.

Such rate may be varied from time to time, within such maximum, by the Local Government.

So far as any defect to be remedied is due to any canal, water-course, road or other work or obstruction, constructed or caused by the Local Government or by any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect shall be borne by such Government or such person as the case may be.

Recovery of rate.

**60.** Any such drainage-rate may be collected and recovered in manner provided by sections forty-five, forty-six and forty-seven, for the collection and recovery of water-rates.

Disposal of claims to compensation.

**61.** Whenever, in pursuance of a notification made under section fifty-five, any obstruction is removed or modified,

or whenever any drainage-work is carried out under section fifty-seven,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work, may be made before the Collector, and he shall deal with the same in the manner provided in section ten.

Limitation of such claims.

**62.** No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

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## PART VIII.—Of obtaining Labour for Canals and Drainage-works.

Definition of 'Labourer.'

**63.** For the purposes referred to in this Part, the word 'Labourer' in-

cludes persons who exercise any handicraft specified in rules to be made in that behalf by the Local Government.

**64.** In any district in which a canal or drainage-work is constructed, maintained or projected by Government, the Local Government may, if it thinks fit, direct the Collector

Power to prescribe number of labourers to be supplied by persons benefited by canal.

(*a*) to ascertain the proprietors, sub-proprietors or farmers, whose villages or estates are or will be, in the judgment of the Collector, benefited by such canal or drainage-work, and

(*b*) to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub-proprietors or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate, for employment on any such canal or drainage-work when required as hereinafter provided.

The Collector may, from time to time, add to or alter such list or any part thereof.

**65.** Whenever it appears to a Divisional Canal-officer duly authorized by the Local Government, that, unless some work is immediately executed, such serious damage will happen to any canal or drainage-work as to cause sudden and extensive public injury,

Procedure for obtaining labour for works urgently required.

and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury,

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer seem necessary for the immediate execution of such work.

Every requisition so made shall be in writing, and shall state

(*a*) the nature and locality of the work to be done,

(*b*) the number of labourers to be supplied by the person upon whom the requisition is made, and

(*c*) the approximate time for which and the day on which the labourers will be required;

and a copy thereof shall be immediately sent to the Superintending Canal-officer for the information of the Local Government.

The Local Government shall fix, and may from time to time alter, the rates to be paid to any such labourers: provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation.

The Local Government may, with the previous sanction of the Governor General in Council, direct that the provisions of this Part shall apply, either permanently or temporarily (as the case may be), to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

Liability of labourers under requisition.

**66.** When any requisition has been made on any person named in the said list, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid.

## PART IX.—Of Jurisdiction.

Jurisdiction under this Act of civil Courts.

**67.** Except where herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the civil Courts; but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order.

Settlement of differences as to mutual rights and liabilities of persons interested in water-course.

**68.** Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, any such person may apply in writing to the Divisional Canal-officer stating the matter in dispute. Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to inquire into the said matter. And, after such inquiry, he shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon inquire into and pass his order on the said matter.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a civil Court.

Power to summon and examine witnesses.

**69.** Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on civil Courts by the Code of Civil Procedure; and every such inquiry shall be deemed a judicial proceeding.

## PART X.—Of Offences and Penalties.

Offences under Act.

**70.** Whoever, without proper authority and voluntarily, does any of the acts following, that is to say,—

(1) damages, alters, enlarges or obstructs any canal or drainage-work;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work;

(3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work;

(4) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner;

(5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(6) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the Local Government for entering or navigating such canal;

(7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon;

(8) being liable to furnish labourers under Part VIII of this Act, fails, without reasonable cause, to supply or to assist in supplying the labourers required of him;

(9) being a labourer liable to supply his labour under Part VIII of this Act, neglects, without reasonable cause, so to supply, and to continue to supply, his labour;

(10) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant;

(11) passes, or causes animals or vehicles to pass, on or across any of the works, banks or channels of a canal or drainage-work contrary to rules made under this Act, after he has been desired to desist therefrom;

(12) violates any rule made under this Act, for breach whereof a penalty may be incurred,

shall be liable, on conviction before a Magistrate of such class as the Local Government directs in this behalf, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

Penalty.

71. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

Saving of prosecution under other laws.

72. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

Compensation to person injured.

73. Any person in charge of or employed upon any canal or drainage-work, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the

Power to arrest without warrant.

nearest police-station, to be dealt with according to law, any person who, within his view, commits any of the following offences:

(1) wilfully damages or obstructs any canal or drainage-work;

(2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work.

Definition of 'Canal.'

74. In this Part the word 'Canal' shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce, occupied by or belonging to Government, upon such lands.

## PART XI.—Of Subsidiary Rules.

Power to make, alter and cancel rules.

75. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, make rules to regulate the following matters:—

(1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(3) the persons by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;

(4) the amount of any charge made under this Act;

(5) and generally to carry out the provisions of this Act.

The Local Government may from time to time, with the like sanction, alter or cancel any rules so made.

Publication of rules.

Such rules, alterations and cancelments shall be published in the local official Gazette, and shall thereupon have the force of law.

# THE CENTRAL PROVINCES MUNICIPAL ACT, 1873.

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## ACT No. XI OF 1873.

*Received the Governor General's assent on the 24th of July, 1873.*

# An Act to provide for the appointment of Municipal Committees in the Central Provinces, and for other purposes.

WHEREAS it is expedient to provide for the appointment of Municipal Committees in towns in the Central Provinces, and for police, conservancy, Preamble.

local improvements and education in such towns, and for the levying of rates and taxes therein; It is hereby enacted as follows:—

## *I.—Preliminary.*

Short title.

**1.** This Act may be called "The Central Provinces Municipal Act, 1873:"

Local extent.

It extends only to the territories for the time being under the administration of the Chief Commissioner of the Central Provinces.

Repeal of Acts.

**2.** Act No. XV of 1867 (*to make better provision for the appointment of Municipal Committees in the Panjáb, and for other purposes*), Act No. XXVI of 1850 (*to enable improvements to be made in towns*), Act No. XVIII of 1864 (*to provide for the appointment of a Municipal Committee for the city of Lucknow*) and Act No. XXII of 1865 (*to amend Act No. XVIII of 1864*) are repealed so far as they affect the Central Provinces.

Existing extensions and appointments.

But all extensions and appointments made, and all limits defined, under any of the said Acts, shall be deemed to be respectively made and defined under this Act. And an extension of any particular provision of Act No. XV of 1867 shall be deemed to be an extension of the corresponding provision of this Act.

Existing assessments and bye-laws.

And all assessments, bye-laws, rules and regulations of any kind, relating to matters provided for by this Act, which may heretofore have been made or approved by the Chief Commissioner, shall be deemed to have been made under this Act.

Former proceedings.

And all proceedings taken under any such assessments, bye-laws, rules and regulations shall be deemed to be as valid as if they had been taken under this Act.

Interpretation-clause.

**3.** In this Act—

"Chief Commissioner."

"Chief Commissioner" means Chief Commissioner of the Central Provinces; and

"Committee."

"Committee" means a municipal committee under this Act.

Power to extend Act to towns.

**4.** The Chief Commissioner may, by notification published in the *Central Provinces Gazette*, declare his intention to extend this Act, or any of its provisions, to any town in the said territories.

Objection to such extension.

Any inhabitant of such town objecting to such extension may, within six weeks from the date of the said publication, send his objection in writing to the Secretary to the Chief Commissioner, and the Chief Commissioner shall take such objection into consideration.

Procedure thereon.

When six weeks from the said publication have expired, the Chief Commissioner, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if, in his opinion, they are insufficient, may, by like notification, effect the proposed extension.

5. For the purposes of this Act, the Chief Commissioner may, from time to time, by notification in the *Central Provinces Gazette,* declare what shall be deemed to be a town for the purposes of this Act, and define the limits of any town to which this Act has been extended.

Power to define limits of towns to which Act extends.

## *II.—Appointment, Duties and Powers of Committees.*

6. In every town to which this Act is extended, the Chief Commissioner shall appoint, or cause to be appointed, a committee consisting of not less than five members.

Appointment of committee.

Such members may be appointed as the Chief Commissioner from time to time directs, either *ex officio,* or by nomination, or by election, or some by one and some by any other of such methods:

Provided that (except with the approval of the Governor General in Council) not less than two-fifths of the members of a committee shall be persons other than salaried officers of Government.

The Chief Commissioner may—

(*a*) from time to time remove any of the members of any committee, add to their number, and fill up vacancies occurring among them;

(*b*) determine the time and manner of the election of those members whom he may direct to be appointed by election, and the persons by whom they shall be elected, and generally make such rules as he thinks fit for regulating such election;

(*c*) appoint the President and Vice-President, or either of them, of any committee, or authorize any committee to appoint, by election from their number, such President or Vice-President, or both.

No appointment under this section, other than the appointment by election of a Vice-President, shall be valid unless and until it is notified in the *Central Provinces Gazette.*

7. Subject to any general rules or special orders which the Governor General in Council may from time to time make in this behalf,

Power to levy rates or make assessments.

every committee intending to impose taxes for the purposes of this Act shall, from time to time, give public notice of such intention, and shall in such notice define the persons or property within the town to be taxed for the purposes of this Act, and the amount or rate of the taxes to be imposed hereunder.

Any inhabitant of such town objecting to such notice may, within a fortnight from the date of the said notice, send his objection in writing to the President of the committee, and the committee shall take such objection into consideration and report their opinion thereon to the Chief Commissioner.

Objection to rates.

Procedure thereon.

When a fortnight from the date of the said notice has expired, if no such objections have been sent as aforesaid, or (where such objections have been sent in) if, in the opinion of the committee, they are insufficient, the committee may, with the previous sanction of the Chief Commissioner, to be notified in the *Central Provinces Gazette,* define the persons or property and the amount or rate of the taxes aforesaid, and may then impose such taxes accordingly.

Power to make rules for collection and application of rates.

8. The Chief Commissioner may from time to time make rules—

as to the persons by whom, and the manner in which, any assessment of taxes under this Act shall be confirmed;

and for the collection of such taxes;

and for the safety and due application of them when collected;

and for the rendering and publishing of such estimates and accounts relating to the expenditure of the municipal funds, in such form as he may think fit.

No tax shall be collected under this Act, until the assessment thereof has been confirmed by the persons and in manner for the time being prescribed by such rules.

Recovery of rates.

9. Rates and arrears of rates imposed under this Act may be recovered as if they were arrears of land-revenue.

Municipal fund.

10. All sums received by the committee of any town to which this Act extends, and all fines levied under this Act, shall constitute a fund, which shall be called the municipal fund of such town, and shall, together with all property which may become vested in such committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

The municipal fund shall, as a rule, be kept in the Government-treasury of the district or in the Bank (if any) to which the Government-treasury business shall have been made over.

But in places where there is no such treasury or Bank, the said fund may, with the previous consent of the Local Government, be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and re-payment on demand of the fund so deposited as the Local Government in each case thinks sufficient.

No disbursement of the municipal fund or any part thereof shall be made except under the signature of the President or Vice-President and one other member of the committee.

Duties and powers of committees.

11. Every committee, so far as the municipal fund at their disposal permits shall in the first place

(*a*) make provision out of such fund for a Police-establishment in manner hereinafter mentioned;

and shall then

(*b*) keep the public streets, roads, drains, tanks and water-courses of the town for which they are appointed, clean and repaired;

and may then

(*c*) do all acts and things necessary for the construction, repair and maintenance of local public works of general utility;

(*d*) make provision, by the establishment of new schools or the aiding of already existing schools or otherwise, for the promotion of education;

(*e*) make provision for promoting the public health, safety, comfort and convenience.

**12.** Every committee shall set apart out of the municipal fund such sum as the Chief Commissioner from time to time requires for the maintenance of the Police-establishment in the town for which the committee are appointed. Provision for Police.

**13.** Every committee may make bye-laws for regulating— Power to make bye-laws as to business and officers.

the time and place of their meeting;

the conduct of their business;

the division of duties among the members of the committee;

the duties, salaries, appointment, suspension and removal of the officers and servants of the committee;

and other similar matters.

**14.** Any committee may make rules— Power to make rules.

(*a*) for declaring what acts or omissions within the limits of the town shall be considered to be public or common nuisances under the Indian Penal Code, or under Act No. V of 1861 (*for the regulation of Police*):

(*b*) for defining the cases, manner and times in and at which the officers of the committee may enter upon private property for the detection and abatement of nuisances:

(*c*) for securing a proper registration of births and deaths;

(*d*) and for carrying out all or any of the purposes of this Act.

The committee may, from time to time, repeal, alter or add to any rules made under this section.

**15.** No rule, and no alteration or repeal of or addition to a rule, shall have effect until it has been confirmed by the Chief Commissioner. Rules to be confirmed and published.

All rules made under this Act, and all bye-laws made under section thirteen, and all alterations and repeals of and additions to such rules and bye-laws shall, before coming into force, be published for such length of time, and in such manner, as the Chief Commissioner from time to time directs.

**16.** The officers of the committee shall have power to enter upon private property, for the detection and abatement of nuisances, when the committee have, under section fourteen, clause (*b*), made rules regulating the exercise of such power. Power to enter on private property.

Power to suspend or limit powers of committees.

**17.** The Chief Commissioner may, by order, suspend or limit all or any of the powers of any committee, and may also cancel any of their proceedings, rules or bye-laws, and remit or reduce any tax which they have imposed.

### *III.—Suits by and against Committees.*

Suits by and against committees.

**18.** Every committee shall sue and be sued in the name of their President.

Contracts of committees.

Every contract made on behalf of any committee in respect of any sum or property exceeding twenty rupees in amount or value, shall be in writing, and shall be signed by the President or Vice-President (if any) and at least two other members of the committee.

No contract, unless so executed, shall be binding on the committee on whose behalf it is made.

Liability of members of committees.

No member of a committee shall be personally liable for any contract made or expense incurred by or on behalf of the committee; but the funds from time to time in the hands of the committee shall be liable for, and chargeable with, contracts duly made as aforesaid.

Every member of a committee shall be liable for any misapplication of money entrusted to the committee, to which he has been a party, or which happens through, or is facilitated by, his neglect of his duty;

and he shall be liable to be sued for the same in such Court as the Chief Commissioner directs as for money due to the Secretary of State for India in Council.

Bar of suit in absence of one month's notice of cause thereof.

**19.** No suit shall be brought against a committee or any of their officers, or any person acting under their direction, for anything done, or purporting to be done, under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of the committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intended plaintiff.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within three months next after the accrual of the right to sue and not afterwards.

And if any person to whom any such notice of suit is given shall, before the suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

### *IV.—Penalties.*

Penalty on member or servant of committee being inter-

**20.** No member or servant of a committee shall be interested, directly or indirectly, in any contract made with the committee, and if any such person be so interested, he shall thereby become incapable of continuing in office or in

employment as such member or servant, and shall be liable to a fine of five hundred rupees:

ested in contracts made with committee.

Provided that no person, by being a shareholder in, or member of, any incorporated or registered Company, shall be disqualified from acting as a member or servant of a committee by reason of any contract entered into between such Company and the committee.

Nevertheless it shall not be lawful for such shareholder or member to act as a member of the committee in any matter relating to any contract entered into between the committee and such Company.

**21.** Whoever infringes any rule made and confirmed as directed in this Act, shall be liable to a fine not exceeding fifty rupees, and, in the case of a continuing infringement, to a fine not exceeding five rupees for every day after notice from the committee of such infringement.

Penalty for infringement of rules or non-payment of fines.

In default of payment of any fine imposed under this section, the defaulter shall be liable to simple imprisonment for a term not exceeding eight days.

**22.** Prosecutions under this Act for infringements of rules may be instituted before any Magistrate by the committee, or by any person authorized by the committee in this behalf.

Prosecutions.

**23.** Fines imposed under this Act may be recovered in manner provided by the Code of Criminal Procedure.

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# THE EUROPEAN BRITISH MINORS ACT, 1874.

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## ACT No. XIII OF 1874.

*Received the Governor General's assent on the 8th of December, 1874.*

# An Act to provide in the Panjáb and elsewhere for the guardianship of European British Minors.

Preamble.

WHEREAS it is expedient to provide in the Panjáb, Oudh, the Central Provinces, British Burma, Coorg, Ajmer and Merwára and Assam for the

guardianship of minors who either are born in the United Kingdom, or any British colony, or are the children or grandchildren of persons so born; It is hereby enacted as follows:—

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## PART I.—Preliminary.

1. This Act may be called "The European British Minors Act, 1874:" Short title.

It extends to the territories respectively subject to the government of the Lieutenant-Governor of the Panjáb and to the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg, Ajmer and Merwára and Assam; Local extent.

So far as relates to minors, it applies only to persons born in the United Kingdom of Great Britain and Ireland, or any British colony, plantation or settlement other than British India, and to their children and grandchildren; Personal application.

And it shall come into force at once. Commencement.

2. In this Act— Interpretation-clause.

'Minor' means a person who has not completed the age of eighteen years; 'Minor.'

'Guardian' means a person who is appointed to take care of a minor's person or property, or both; and 'Guardian.'

'Court' means the highest civil Court of appeal in any territory (other than British Burma) to which this Act extends. 'Court.'

In British Burma 'Court' means, in the town of Rangoon, the Court of the Recorder of Rangoon, and, elsewhere, the Court of the Deputy Commissioner.

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## PART II.—Appointment of Guardians.

3. A guardian of the person or property, or both, of any minor may be appointed by will or other instrument to take effect upon the death of the parent appointing— Appointment by parent.

(*a*) if the minor is legitimate, by the father, or by either parent if the other is dead or incapable of acting;

(*b*) if the minor is illegitimate, by the mother.

4. If the Court within the local limits of whose jurisdiction any minor resides finds that the guardianship of his person or property has not been sufficiently provided for under section 3, the Court may appoint a guardian of his person or property, or both, as the case may be. Appointment by Court.

If the minor has several properties, the Court may, if it think fit, appoint a guardian for each such property.

If the Court appoints a guardian for any property situate beyond the local limits of its jurisdiction, the Court within the local limits of whose jurisdiction such property may be situate shall accept such guardian as duly appointed and give effect to the order appointing him.

Application for appointment.

5. Whoever desires to be appointed the guardian of a minor's person or property, or both, may apply to the Court within the local limits of whose jurisdiction the minor resides by petition setting forth the grounds of his application, and showing—

(*a*) the minor's age and residence;

(*b*) the nature and amount of his property;

(*c*) what relatives he has in India or elsewhere; and

(*d*) the qualifications of the proposed guardian and his willingness to act as such.

Stamp.

The petition shall bear a stamp of five rupees, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints, and may at the hearing be referred to as evidence.

Verification.

Notice of application.

The Court, if satisfied that there is ground for proceeding, shall give notice of the application to the person (if any) named in the petition as having the custody or being in possession of the person or property of such minor, as well as to any other person whom the Court may think should receive such notice, and shall fix as early a day as may be convenient for the hearing of the petition.

Production of minor.

6. The Court may direct that the person (if any) having the custody of such minor shall produce him at such place and time as may be appointed by the Court, and may make such order for the temporary custody and protection of the minor's person or property as may appear proper.

Evidence of fitness.

7. On the day fixed for the hearing of the petition or as soon after as may be practicable, the petitioner shall adduce evidence to show the fitness of the proposed guardian;

and the Court shall make such order as it thinks fit in respect to the guardianship of the minor's person or property, or both, and the costs of the case.

Procedure.

8. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in the Code of Civil Procedure in so far as the same is applicable; and any order made by the Court under section 6 or section 7 may be enforced as if such order had been made in a regular suit or on appeal; and all orders made under this Act by Deputy Commissioners in British Burma shall be appealable as if they were decrees.

Forms.

The forms set forth in the schedule hereto annexed, with such variation as

the circumstances of each case require, may be used for the respective purposes mentioned in such schedule.

And the Court may from time to time prescribe rules consistent with this Act for regulating the procedure hereunder: Subsidiary rules.

Provided that, in the case of Courts of Deputy Commissioners in British Burma, such rules shall be prescribed by the Judicial Commissioner.

**9.** Save as provided by section 8, no order passed under this Act in respect to the guardianship of a minor's person or property shall be liable to be contested in any other proceeding. Orders under Act not to be contested.

**10.** In appointing the guardian of a minor, the Court shall be guided by the following considerations:— Rules for awarding custody of minor.

(*a*) By what appears to be for the best interest of the minor in respect to his temporal and his mental and moral welfare; and if the minor is old enough to form an intelligent preference, the Court may consider that preference:

(*b*) As between parents adversely claiming the custody or guardianship, neither parent is entitled to it as of right; but if, other things being equal, the minor is of tender years, he should be given to the mother: if he is of an age to require education and preparation for labour and business, then to the father:

(*c*) The Court shall also consider the following circumstances according as they may bear upon the guardianship of person or of property:—

(1) Nearness of relationship;

(2) The wishes of a deceased parent;

(3) Any existing or previous connection of the proposed guardian with the minor's person or property.

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## PART III.—Guardian's Duties, Rights and Liabilities.

### *A.—Guardians of the Person.*

**11.** A guardian of the person is charged with the custody of the ward, and must look to his support, health and education. Duties of guardian of the person.

**12.** A ward is presumed to be of his father's religion; and the guardian, in the absence of the Court's direction to the contrary, must train the ward in such religion. If the ward is old enough to form an intelligent preference for any religion, the Court, in giving such direction, shall attend to such preference. Ward's religion.

**13.** Any ward who may desert his home may be compelled by order of the Court to return. But such order may be withheld by the Court if it appear— Guardian entitled to custody of ward.

(*a*) that the ward has been subjected to maltreatment at the hands of his guardian;

(*b*) that the conduct of the guardian in other respects renders him unfit for the office, or

(*c*) that the ward is on reasonable grounds unwilling to return and is old enough to form an intelligent preference on such a subject.

Removal of ward from jurisdiction.

**14.** No guardian of the person appointed by the Court shall, without the leave of the Court, remove its ward from the limits of its jurisdiction.

Any person wilfully contravening this prohibition shall be liable by order of the Court to fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

*B.—Guardians of Property.*

Duties of guardian of property.

**15.** A guardian of the property shall keep safely the property of his ward.

Prohibition of waste.

In the case of immoveable property, he shall not suffer any waste, but shall maintain the buildings (if any) thereon and their appurtenances out of the rents and profits of the property.

Power to lease.

**16.** The guardian of any immoveable property may make leases for any term not exceeding a year, or from year to year, of such property or any part thereof; and with the sanction of the Court, may make such lease of the property, or any part thereof, for such term of years and subject to such rents and covenants as the Court may direct; but in no such case shall any fine or premium be taken.

The lease shall be settled by an officer of the Court, and a counterpart thereof shall be executed by the lessee, and shall be deposited for safe custody in the Court until the ward completes the age of eighteen years; but all proper parties shall have the use thereof, if necessary, for the purpose of enforcing any covenant therein contained.

Power to use principal for ward's maintenance, &c.

**17.** The Court may order that the principal of the ward's property, or any part thereof, shall be applied for his maintenance, education or advancement, and the guardian of such property shall obey such order.

Rules as to guardians of property.

**18.** Every guardian of the property of a minor shall—

(*a*) give such security, if any, as the Court thinks fit duly to account for what he shall receive in respect of the minor's property;

(*b*) pass his accounts at such periods and in such form as the Court directs;

(*c*) pay the balance due from him thereon;

(*d*) be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties;

(*e*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

*C.—As to all Guardians.*

**19.** No person appointed a guardian shall be competent to act as such unless he has completed the age of eighteen years. Minor guardians incompetent to act.

**20.** Every guardian, whether appointed by a parent or under this Act by a Court, is subject to the control of the Court within the local limits of whose jurisdiction he resides. Guardian under control of Court.

**21.** On the death of one of two or more joint guardians, whether appointed by a parent or under this Act, the power continues to the survivor or survivors until a further appointment is made by the Court. Death of joint guardian.

**22.** A guardian may be removed by the Court for any of the following causes :— Removal of guardian.

(*a*) for abuse of his trust;

(*b*) for continued failure to perform its duties;

(*c*) for incapacity to perform its duties;

(*d*) for gross immorality;

(*e*) for having an interest adverse to the faithful performance of his duties;

(*f*) for removal from the local limits of the jurisdiction of the Court;

(*g*) the arrival within such local limits of some person whose guardianship the Court may think likely to be more beneficial to the minor than the guardianship of the person so removed;

(*h*) in the case of a guardian of the property, for insolvency.

In any such case the Court may appoint a successor to the guardian so removed. Appointment of successor.

**23.** Any guardian, whether appointed by a parent or by the Court, desiring to resign his office may apply to the Court to discharge him, Resignation of guardian.

and if the Court finds that there is some other proper person whom it may appoint to such guardianship, it shall discharge the guardian accordingly and appoint such other proper person in his place.

**24.** Applications for appointments under section 22 or section 23 shall be made in manner provided in section 5; and the procedure thereon shall be in accordance with section 7. Application for appointment on guardian's removal or resignation.

**25.** The power of a guardian of the person ceases— Close of authority of guardian.

(*a*) by his removal or discharge;

(*b*) by the ward's attaining majority, and,

(*c*) in the case of a female ward, by her marriage followed by cohabitation.

The power of a guardian of the property ceases—

(*a*) by his removal or discharge;

(*b*) by the ward's attaining majority.

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## SCHEDULE.

### *I.—Petition for Appointment of Guardian.*

(*See section 5.*)

In the Chief Court of the Panjáb [*or* In the Court of the Recorder Rangoon, *or as the case may be*].

In the matter of *A. B.*, a minor, by *C. D.*, his next friend.

To Mr. Justice (*or as the case may be*).

The petition of *C. D.* of

Sheweth—

1. The said *A. B.* is now of the age of years and upwards. He is the same person as '*A*, son of *C.* and *L. B.*' named in the paper-writing now produced and shown to me and marked A, and purporting to be a copy under the seal of the General Register Office of the entry No. in the certified copy of entries of births in the district of *D*, in the county of *L*, for the year 187 .

2. The said *A. B.* is absolutely entitled, under the will of *his maternal uncle E. F.*, late of (*residence and addition*) to the following properties (namely) :—

(*a*) a house in let to *N. O.* as yearly tenant at Rs. 1,000 a year;

(*b*) Rs. 20,000 in the four per cent. securities of the Government of India, standing in the names of *R. S.* and *T. W.*, the trustees of the will of the said *E. F.*;

(*c*) Rs. 800 cash in the hands of the said *R. S.* and *T. W.*, arisen from dividends on the said stock.

3. The only relations of the said *A. B.* now living are—(*a*), your petitioner, his maternal uncle; (*b*)—*S. H.*, wife of *T. H.* of (*residence and addition*), the half-sister of the said *A. B.*, and (*c*)—*R. D. V.*, the half-brother of the said *A. B.*, who is a Captain in Her Majesty's Army, and now stationed at Bombay.

4. The said *A. B.* was, at the time of the death of his father, *C. B.*, which happened on the 187 , and is now, residing as a scholar at Bishop Cotton's School, Simla, in the custody of the Rev. *M. N.*, the head-master.

5. Your petitioner [*here state his qualifications as guardian, e. g., that he has attained his majority, is married, has children, resides with his family at some*

*reasonably healthy place, mentioning it, holds a responsible office, stating it*], and is willing to act as the guardian of the person and property [*or as may be*] of the said *A. B.* during his minority in case this Honourable Court shall think fit to appoint me to that office.

Your petitioner therefore prays this Honourable Court—

1. That your petitioner or some other proper person may, upon giving security, be appointed the guardian of the person and property of the said *A. B.* during his minority, or until further order.

2. And that the said *C. D.* or other such guardian may from time to time pass his accounts and pay the balances which shall be certified to be due from him into the Government-treasury to the credit of this matter, and that such balances may be laid out in securities of the Government of India, or in loans or bonds secured by the Imperial Parliament on the revenues of India, or in debentures of railways guaranteed by the Government of India, and the interest to accrue thereon and all accumulations of interest be laid out in like manner.

3. And that the costs of this petition may be taxed as between attorney and client; and that the said *C. D.* or other such guardian may retain and pay the same out of any monies of the said minor which may come to his hands and be allowed the same on passing his said accounts.

(*Signed*) *C. D.*

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*Form of Verification.*

(*See section 5.*)

I, *C. D.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

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*II.—Affidavit of Fitness of Guardian.*

(*See section 7.*)

In the Chief Court, &c., (*or as the case may be*).

In the matter of *A. B.*, a minor, by *C. D.*, his next friend.

I, *E. F.*, of (*residence and addition*), make oath and say as follows :—

1. I know and have for years past been well acquainted with *C. D.*, the petitioner in this matter.

2. The said *C. D.* is married and has children, namely, a son of the age of years and daughters of the respective ages of and years.

3. The said *C. D.* resides with his wife and children at

4. In my judgment and belief the said *C. D.* is a fit and proper person to be appointed guardian of the person and property of his nephew, the said minor *A. B.*, for the following reasons (*state them*) :

Sworn at , this day of 187 , before me *E. F.*

(*Official character and description of E. F.*)

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*III.—Recognizance by a Guardian of Property and his Surety, after an Order appointing him subject to his giving Security.*

Stamp as in case of a bond.

(*Short title.*)
The senior Judge of the Chief Court of the Panjáb [*or as the case may be*] has approved of and allowed this recognizance.
X. Y.,
*Registrar.*

*C. D.*, (*the principal*), of (*residence and addition*), and *L. M.* (*the surety*) acknowledge themselves and each of them acknowledges himself to owe to the Secretary of State for India in Council the sum of Rs. [*to be regulated by the sum which the guardian is likely to receive during the currency of his periodical account*] to be paid to the said Secretary of State for India in Council; and unless they pay the same, they, the said *C. D.* and *L. M.*, do and each of them doth grant for himself, his executors and administrators that the said sum shall be levied and received from them and each of them and from their and his moveable and immoveable property.

Dated the day of 187 .

WHEREAS, by an order of the Court of , made by (*name the Judge*), in a certain matter there depending, intituled 'In the matter of [*Recite the order appointing the guardian, subject to his giving security and continue thus*] :—

And whereas (*name the Judge who has approved of the surety and recognizance*) has approved of the above-bounden *L. M.* as surety for the said *C. D.*, and hath also approved of the above written recognizance with the underwritten condition as a proper security to be entered into by the said *C. D.* and *L. M.* pursuant to the said order, and in testimony of the said approbation,

the Registrar [*or as the case may be*] of the said Court hath signed an allowance in the margin thereof.

Now the condition of the above-written recognizance is such, that if the said *C. D.* shall duly account for every sum of money which he shall receive on account of the property of the said minor *A. B.* and the rents and profits and other income thereof, at such periods as the said Judge shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court or Judge hath directed, or shall hereafter direct, then the above recognizance shall be void, otherwise the same shall remain in force.

*C. D.*
*L. M.* } Taken and acknowledged by the above-named *C. D.* and *L. M.*, at in this day of 187 before me

(*Signature and style of office of the officer by whom the recognizance is taken.*)

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# THE CENTRAL PROVINCES LAWS ACT, 1875.

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1. Short title.
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   Commencement.
2. Repeal of enactments and rules.
   Proviso as to law relating to land-revenue and Courts of Wards.
3. Certain enactments to be deemed to be in force.
4. Confirmation of existing Acts.
5. Rules of decision in cases of certain classes.
6. Rule in cases not expressly provided for.
7. Articles exempt from attachment.
8. Power to make subsidiary rules.
9. Penalty for breach of rules.
10. Publication of rules.
11. Local repeal, in part, of Code of Civil Procedure.
12. Sections substituted in same Code.
    Force of rules.

SCHEDULE.

## ACT No. XX OF 1875.

*Received the Governor General's assent on the 9th of December, 1875.*

# An Act to declare and amend the law in force in the Central Provinces.

Preamble.

WHEREAS it is expedient to declare and amend certain portions of the law in force in the Central Provinces; It is hereby enacted as follows:—

Short title. Local extent.

1. This Act may be called "The Central Provinces Laws Act, 1875:"

It extends to the territories now under the administration of the Chief Commissioner of the Central Provinces;

Commencement.

And it shall come into force on the passing thereof.

Repeal of enactments and rules.

2. On and from the date on which this Act comes into force the following shall be repealed, that is to say,—

(*a*) all Bengal Regulations except the Regulations or parts of Regulations hereinafter declared to be in force;

(*b*) all Acts of the Governor General in Council (except the Acts mentioned in the schedule hereto annexed), which do not expressly or by necessary implication extend to the said territories or any part thereof, and have not been extended thereto in exercise of a power conferred by an Act of the Governor General in Council;

(*c*) all rules, regulations and enactments not being Statutes, Bengal Regulations, Acts of the Governor General in Council, or rules or regulations made in exercise of a power conferred by a Statute, Bengal Regulation, or Act of the Governor General in Council:

Proviso as to law relating to land-revenue and Courts of Wards.

Provided that nothing in this section shall affect any rules, regulations, enactments or laws relating to the settlement and collection of land-revenue or the jurisdiction of Courts of Wards, which may be in force at the passing of this Act in any part of the said territories.

Certain enactments to be deemed to be in force.

3. On and from the said date the enactments specified in the schedule hereto annexed shall be deemed to be in force throughout the said territories, to the extent mentioned in the third column of the said schedule.

But the powers and duties incident to the operation of the same enactments, so far as such powers and duties are referred to in the fourth column of the said schedule, shall be exercised and performed by the authorities mentioned in that column.

Nothing in this section shall be deemed to affect the operation of any enactment not mentioned in the said schedule.

Confirmation

4. Every Act of the Governor General in Council, which extends, or can

by notification be extended, to the territories which were under the administration of the said Chief Commissioner at the time of the passing thereof, shall extend, or may by notification be extended, as the case may be, to all the territories now under the administration of the said Chief Commissioner. of existing Acts.

5. In questions regarding inheritance, special property of females, betrothal, marriage, dower, adoption, guardianship, minority, bastardy, family-relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, except in so far as such law has been by legislative enactment altered or abolished, or is opposed to the provisions of this Act: Rules of decision in cases of certain classes.

Provided that when among any class or body of persons or among the members of any family any custom prevails which is inconsistent with the law applicable between such persons under this section, and which, if not inconsistent with such law, would have been given effect to as legally binding, such custom shall, notwithstanding anything herein contained, be given effect to.

6. In cases not provided for by section 5, or by any other law for the time being in force, the Courts shall act according to justice, equity and good conscience. Rule in cases not expressly provided for.

7. Implements of husbandry and cattle for agricultural purposes and implements of trade are exempted from attachment and sale in execution of decrees of the civil Courts. Articles exempt from attachment.

8. The said Chief Commissioner may from time to time make rules consistent with this Act as to the following matters:— Power to make subsidiary rules.

(*a*) the maintenance of watch and ward and the establishment of a proper system of conservancy and sanitation at fairs and other large public assemblies;

(*b*) the imposition of taxes for the purposes mentioned in clause (*a*) of this section on persons holding or joining any of the assemblies therein referred to;

(*c*) the custody of judicial records, civil and criminal;

(*d*) the appointment, duties, punishment, suspension and dismissal of all ministerial officers.

9. The Chief Commissioner may, in making any rule under this Act, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment, or two hundred upees fine, or both. Penalty for breach of rules.

10. All rules made under this Act shall, when sanctioned by the Governor General in Council, be published in the *Central Provinces Gazette*, and shall thereupon have the force of law. Publication of rules. Force of rules.

11. Sections 184, 185 and 189 of the Code of Civil Procedure are hereby repealed. Local repeal, in part, of Code of Civil Procedure.

Sections substituted in same Code.

12. For sections 182, 190 and 191 of the same Code, the following shall be substituted (namely) :—

Note of evidence to be taken.

"182. A note of the essential points of the evidence of each witness shall be made at the time, and in the course, of oral examination, by the Judge, in his own language, or in English if he is sufficiently acquainted with that language, and such note shall be filed with, and form part of, the record of the case.

Judge unable to make note to record reason of his inability.

"190. If the Judge be prevented from making a note as above required, he shall record the reason of his inability to do so, and shall cause such note to be made in writing from his dictation in open Court, and shall sign the same, and such note shall form part of the record.

Power to use note made by Judge dying or removed before conclusion of suit.

"191. When the Judge making a note of the evidence, or causing one to be made as above required, dies or is removed from the Court before the conclusion of the suit, his successor may, if he thinks fit, deal with such note as if he himself had made it or caused it to be made."

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## SCHEDULE.

(*See section* 3.)

### *A.*—Bengal Regulations.

| Number and year of Regulation. | Subject. | Extent of operation. | Powers or duties how to be exercised or performed. |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| I of 1798 ... | The prevention of fraud and injustice in conditional sales of land under deeds of Bai-bil-wafa or other deeds of the same nature. | The whole ... | The functions of "the Díwání Adálat" shall be discharged by the "District Court" as defined in section three, Act XIV of 1865 (The Central Provinces Courts Act). |
| V of 1799 ... | Estates of Intestates | Sections 4, 5 and 6. | The functions of the Court of "Sadr Díwání Adálat" shall be performed by the Judicial Commissioner. |
| X of 1804 ... | Punishment of State offences by Courts-Martial. | So much as has not been repealed. | |

SCHEDULE,—*continued.*

*A.*—BENGAL REGULATIONS,—*continued.*

| Number and year of Regulation. | Subject. | Extent of operation. | Powers or duties how to be exercised or performed. |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| XI of 1806 ... | Passage of Troops ... | Sections 2 to 6 and section 8, with the exception of such part as authorizes Collectors and their Native officers, or Magistrates and their Police-officers, to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of travellers, and with the exception, in section 8, of the words and figures "under the rules prescribed by Regulation V. 1804." | The powers of the "Governor General in Council" and of the "Board of Revenue" shall be exercised by the Chief Commissioner. |
| XVII of 1806 ... | Redemption and foreclosure of mortgages and conditional sales of land under deeds of Bai-bil-wafa, &c. | Sections 7 and 8 ... | The functions of the "Zila or City Court of Díwání Adálat" shall be discharged by the "District Court" as defined in section three, Act XIV of 1865 (The Central Provinces Courts Act). |
| XX of 1810 ... | Camp-followers and Bázárs. | So much as has not been repealed, except sections 1 to 3, 6, 20, and in section 7 the words "as described in the plans." | |
| XI of 1812 ... | Foreign Immigrants | So much as has not been repealed. | The powers of the "Nizámat Adálat" shall be exercised by the Judicial Commissioner. |
| III of 1818 ... | State Prisoners ... | So much as has not been repealed. | |

## SCHEDULE,—*concluded.*

### *A.*—Bengal Regulations,—*concluded.*

| Number and year of Regulation. | Subject. | Extent of operation. | Powers or duties how to be exercised or performed. |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| VI of 1825 ... | Supply of troops on the march. | The whole ... | The powers of the "Board of Revenue" shall be exercised by the Chief Commissioner. |
| XI of 1825 ... | Alluvion and Diluvion | The whole. | |
| XX of 1825 ... | Jurisdiction of Courts Martial. | Sections 1 and 2. | |
| V of 1827 ... | Administration of landed property. | So much as has not been repealed, except the words and figures "and clauses five and six, section XVI, Regulation III. 1803." | The powers of the "Board of Revenue" shall be exercised by the Chief Commissioner. |

### *B.*—Acts of the Governor General in Council.

| Number and year of Act. | Subject. | Extent of operation. |
|---|---|---|
| 1 | 2 | 3 |
| VIII of 1851 ... | Tolls on Roads and Bridges ... | The whole Act, except section one and the schedule. |
| XVIII of 1853 ... | Sale of spirits in Cantonments. | The whole Act. |
| XIII of 1857 ... | Opium ... ... | Sections twenty-one, twenty-two, twenty-three, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine. |
| XL of 1858 ... | Minors ... ... | The whole Act, except section one, and subject to the amendment made by the Indian Majority Act, 1875. |
| XV of 1864 ... | Tolls ... ... ... | The whole Act. |

## ACT No. X OF 1878.

*Received the Governor General's assent on the 15th of March, 1878.*

# An Act for the levy of Additional Rates on land in the Central Provinces.

WHEREAS, in order to defray the expenditure incurred and to be incurred for the relief and prevention of famine, it is necessary to make a permanent increase to the annual revenues, and it is therefore expedient to provide, in the territories administered by the Chief Commissioner of the Central Provinces, for the levy of additional rates on land; It is hereby enacted as follows:— Preamble.

1. This Act may be called "The Central Provinces Additional Rates Act, 1878:" Short title.

It extends only to the territories administered by the Chief Commissioner of the Central Provinces; Local extent.

And it shall come into force on such date as the Governor General in Council by notification in the *Gazette of India* directs. Commencement.

2. Every estate shall be liable, in addition to the rates and cesses payable under any settlement for the time being in force, to the payment of such further rate, not exceeding one per cent. on its annual value, as the Chief Commissioner, with the previous sanction of the Governor General in Council, from time to time imposes. Additional rate on estates.

"Annual value" means,

(1) in cases in which the settlement of the land-revenue is liable to periodical revision, double the amount of the land-revenue for the time being assessed on the estate;

(2) in cases in which such settlement is not liable to such revision, or in which the land-revenue has been, wholly or in part, released, compounded for redeemed or assigned, double the amount which, if the settlement were liable to such revision and an assessment at full rates were made, would be assessed as land-revenue on the estate.

3. All sums due on account of any rate imposed under this Act shall be recoverable as if they were arrears of land-revenue due in respect of the land on account of which the rate is payable. Recovery of rates.

4. The proceeds of all rates levied uuder this Act shall be carried to the credit of the Local Government. Rates how to be credited.

5. From the sums so credited the Chief Commissioner shall from time to time appropriate such amount as the Governor General in Council may direct, for the purpose of increasing the revenues available for defraying the expend- Appropriation for increasing revenue available

for relief and prevention of famine.

iture incurred or to be incurrrd for the relief and prevention of famine in the said territories: or, if the Governor General in Council so directs, in any other part of British India.

The residue of the said sums after such appropriation may be applied by the Chief Commissioner, subject to the control of the Governor General in Council, to such local works likely to promote the public health, comfort or convenience as the Chief Commissioner thinks fit.

Supplementary powers of Chief Commissioner.

6. The Chief Commissioner, with the previous sanction of the Governor General in Council, may by notification in the local Gazette from time to time—

(*a*) determine by what instalments and at what times any rate under this Act shall be payable, by whom it shall be assessed, collected and paid, and what portion (if any) thereof, paid by any person in respect of an estate, may be recovered by such person from any other persons having any interest in such estate;

(*b*) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement;

(*c*) exempt wholly or in part any portion of the said territories from the operation of this Act, or exempt any estate from liability to pay the whole or any part of any rate under this Act, and cancel any exemption under this clause;

(*d*) direct fresh measurements of estates liable to pay rates under this Act, and vary the assessments accordingly.

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# THE NORTHERN INDIA FERRIES ACT, 1878.

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## ACT No. XVII OF 1878.

*Received the Governor General's assent on the 9th of November, 1878.*

# An Act to regulate Ferries in Northern India.

Preamble.

WHEREAS it is expedient to regulate ferries in the Panjáb, the North-Western Provinces, Oudh, the Central Provinces, Assam and Ajmer and Merwára; It is hereby enacted as follows:—

### I.—PRELIMINARY.

Short title.

1. This Act may be called "The Northern India Ferries Act, 1878:"

Local extent.

It extends only to the territories respectively administered by the Lieutenant-Governors of the Panjáb and the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, Assam and Ajmer and Merwára:

Commencement.

It shall come into force in each of the said territories on such date as the Local Government may, by notification in the official Gazette, fix in this behalf.

Repeal.

2. On and from the date on which it comes into force in the territories respectively administered by the Lieutenant-Governor of the North-Western Provinces and the said Chief Commissioners, Bengal Regulation VI of 1819 shall be repealed therein; but all determinations, declarations, orders and rules made, engagements entered into, and securities taken, under that Regulation, and then in force, shall be deemed to be respectively made, entered into and taken under this Act.

Interpretation clause.

3. In this Act the word "ferry" includes also a bridge of boats, pontoons or rafts, a swing-bridge, a flying-bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry.

### II.—PUBLIC FERRIES.

Power to declare, establish, define and discontinue public ferries.

4. The Local Government may from time to time—

(*a*) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;

(*b*) take possession of a private ferry and declare it to be a public ferry;

(*c*) establish new public ferries where, in its opinion, they are needed;

(*d*) define the limits of any public ferry;

(*e*) change the course of any public ferry; and

(*f*) discontinue any public ferry which it deems unnecessary.

Every such declaration, establishment, definition, change or discontinuance shall be made by notification in the official Gazette:

Provided that, when a river lies between two Provinces, the powers conferred by this section shall, in respect of such river, be exercised by the Governor General in Council, by notification in the *Gazette of India*, and not otherwise:

Provided also that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made, by an order under his hand, by the Commissioner of the division in which such ferry is situate, or by such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf.

Claims for compensation.

5. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under section 4, shall be enquired into by the Magistrate of the district in which such ferry is situate, or such officer as he appoints in this behalf, and submitted for the consideration and orders of the Local Government.

Superintendence of public ferries.

6. The immediate superintendence of every public ferry shall, except as provided in section 7, be vested in the Magistrate of the district in which such ferry is situate, or in such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf;

and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

Management may be vested in municipality;

7. The Local Government may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town;

and proceeds paid into municipal fund.

and may further direct that all or any part of the proceeds from such ferry be paid into the municipal fund of such town;

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

Letting ferry-tolls by auction.

8. The tolls of any public ferry may, from time to time, be let by public auction for such term not exceeding five years as the Magistrate of the district, subject to the approval of the Commissioner of the division in which such ferry is situate, may deem expedient.

The lessee shall conform to the rules made under this Act for the management and control of such ferry, and may be called upon by the officer conducting the auction to give such security for his good conduct and for the punctual payment of the rent as such officer thinks fit.

Such officer may, for sufficient reason recorded in writing under his hand, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

Recovery of arrears from lessee.

9. All arrears due by the lessee of the tolls of a public ferry on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the district in which such ferry is situate as if they were arrears of land-revenue.

Power to cancel lease.

10. The Local Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease.

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the Local Government, award.

Surrender of lease.

11. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Local Government of his intention to surrender such lease, and on payment to the Magistrate of the district in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the Commissioner, may in each case direct.

Power to make rules.

12. Subject to the control of the Local Government, the Commissioner of a division, or such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, may, from time to time, make rules consistent with this Act—

(*a*) for the control and the management of all public ferries within such division and for regulating the traffic at such ferries;

(*b*) for regulating the time and manner at and in which, the terms on which, and the person by whom, the tolls of such ferries may be let by auction;

(*c*) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and

(*d*) generally to carry out the purposes of this Act;

and, when the tolls of a ferry have been let under section 8, such Commissioner or other officer may, from time to time (subject as aforesaid), make additional rules consistent with this Act—

(*e*) for collecting the rents payable for the tolls of such ferries;

(*f*) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same, and

(*g*) in cases in which the traffic is conveyed in boats, for regulating (1) the number and kinds of such boats and their dimensions and equipment; (2)

the number of the crew to be kept by the lessee for each boat; (3) the maintenance of such boats continually in good condition; (4) the hours during which, and the intervals within which, the lessee shall be bound to ply, and (5) the number of passengers, animals and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip.

The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaid may from time to time require.

Private ferry not to ply within two miles of public ferry without sanction.

**13.** No person shall, except with the sanction of the officer charged with the superintendence of a public ferry, keep a ferry-boat for the purpose of plying for hire to or from any point within a distance of two miles from the limits of such public ferry:

Provided that, in the case of any specified public ferry, the Local Government may, by notification in the official Gazette, reduce or increase the said distance of two miles to such extent as it thinks fit:

Provided also that nothing hereinbefore contained shall prevent persons plying between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or apply to boats which the Local Government expressly exempts from the operation of this section.

Person using approaches, &c., liable to pay.

**14.** Whoever uses the approach to, or landing-place of, a public ferry is liable to pay the toll payable for crossing such ferry.

Tolls.

**15.** Tolls, according to such rates as are from time to time fixed by the Local Government, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service:

Provided that the Local Government may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division or such other officer as the Local Government may, from time to time, appoint in this behalf by name or in virtue of his office.

Table of tolls.

**16.** The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner of the division so directs, in English, in some conspicuous place near the ferry,

List of tolls.

and shall be bound to produce, on demand, a list of the tolls, signed by the Magistrate of the district or such other officer as he appoints in this behalf.

Tolls, rents, compensation and fines how disposed of.

**17.** Except as provided by section 7, all tolls, rents and compensation received by or on behalf of Government, and all fines levied, under this Act shall be disposed of as follows, that is to say:—

(*a*) in the territories administered by the Lieutenant-Governor of the North-Western Provinces, the residue of such tolls, rents, compensation and fines, after defraying thereout all charges incurred in carrying out this Act in those territories, shall be credited to the fund constituted for those territories by the North-Western Provinces Local Rates Act, 1878;

(*b*) in the territories administered by the Chief Commissioner of Oudh, the residue as aforesaid shall be credited to the fund constituted for those territories by the Oudh Local Rates Act, 1878;

(*c*) in the territories respectively administered by the Lieutenant-Governor of the Panjáb and the Chief Commissioner of the Central Provinces, such tolls, rents, compensation and fines shall be credited to the Local Government and applied, first, to defraying all charges incurred in carrying out this Act in those territories respectively, and then, at the discretion of the Local Government, to any of the purposes specified in the second clause of section 7 of the Panjáb Local Rates Act, 1878, or the second clause of section 5 of the Central Provinces Additional Rates Act, 1878, as the case may be, and

(*d*) in the territories respectively administered by the Chief Commissioner of Assam and the Chief Commissioner of Ajmer and Merwára, such tolls, rents, compensation and fines shall be credited to the Local Government and applied, first, to defraying all charges incurred in carrying out this Act in those territories respectively, and then to such local works and establishments likely to promote the public health, comfort or convenience as the Local Government, subject to the control of the Governor General in Council, may from time to time direct.

Compounding for tolls.

**18.** The Local Government may, if it thinks fit, from time to time fix rates at which any person may compound for the tolls payable for the use of a public ferry.

## III.—Private Ferries.

Power to make rules.

**19.** The Commissioner of the division may, with the previous sanction of the Local Government, from time to time make rules for the maintenance of order and for the safety of passengers and property at ferries other than public ferries.

Tolls.

**20.** The tolls charged at such ferries shall not exceed the highest rates for the time being fixed under section 15 for similar public ferries.

## IV.—Penalties and Criminal Procedure.

**21.** Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 16,

Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section 16,

and every lessee who neglects to furnish any return required under section 12,

shall be punished with fine which may extend to fifty rupees.

**22.** Every such lessee or other person as aforesaid and any person in possession of a private ferry asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for taking unauthorized toll, and for causing delay.

**23.** Every person breaking any rule made under section 12 or section 19 shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Penalty for breach of rules made under sections 12 and 19.

**24.** When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 23, or, having been convicted of an offence under section 21 or section 22, is again convicted of an offence under either of those sections,

Cancelment of lease on default or breach of rules.

the Magistrate of the district may, with the sanction of the Commissioner of the division, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

**25.** Every person crossing by any public ferry, or using the approach to, or landing-place thereof, who refuses to pay the proper toll, and every person—

Penalties on passengers offending.

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act, or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes or takes any animals, vehicles or other things into any ferry-

boat, or upon any bridge, at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles or goods from, any such ferry-boat or bridge, on being requested by such toll-collector, lessee or assistant to do so,

shall be punished with fine which may extend to fifty rupees.

Penalty for plying within public ferry-course without license.

**26.** Whoever conveys for hire any passenger, animal, vehicle or other thing in contravention of the provisions of section 13, shall be punished with fine which may extend to fifty rupees.

Fines payable to lessee.

**27.** Where the tolls of any public ferry have been let under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 25 or section 26 may, notwithstanding anything contained in section 17, be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

Penalty for rash navigation and stacking of timber.

**28.** Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry or any of his assistants, may seize and detain such vessel, raft or timber pending the enquiry and assessment hereinafter mentioned.

Power to arrest without warrant.

**29.** The Police may arrest without warrant any person committing an offence against section 25 or section 28.

Power to try summarily.

**30.** Any Magistrate or Bench of Magistrates having summary jurisdiction under chapter XVIII of the Code of Criminal Procedure may try any offence against this Act in manner provided by that chapter.

Magistrate may assess damage done by offender.

**31.** Every Magistrate or Bench of Magistrates trying any offence under this Act may enquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 28, by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.

The Commissioner of the division may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

## V.—Miscellaneous.

Power to

**32.** When the lease of the tolls of any ferry is surrendered under section

11 or cancelled under section 24, the Magistrate of the district may take possession of all boats and their equipment, and all other material and appliances, used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such Magistrate can conveniently procure proper substitutes therefor.

take possession of boats, &c., on surrender or cancellation of lease.

**33.** When any boats or their equipment, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such transport is completed.

Similar power in cases of emergency.

**34.** No suit to ascertain the amount of any compensation payable, or abatement of rent allowable, under this Act shall be cognizable by any civil Court.

Jurisdiction of civil Courts barred.

**35.** The Local Government may, from time to time, delegate, under such restrictions as it thinks fit, any of the powers conferred on it by this Act to any Commissioner of a division or Magistrate of a district, or to such other officer as it thinks fit, by name or by virtue of his office.

Delegation of powers.

**36.** All matters determined, orders issued, acts done, penalties imposed and proceedings held in the territories administered by the Lieutenant-Governor of the Panjáb after the repeal of Bengal Regulation VI of 1819 by the Panjáb Laws Act, 1872, section 4, and before this Act comes into force in such territories shall, whenever such determinations, orders, acts, penalties or proceedings would have been lawful if the said Regulation had been in force, be deemed to have been respectively determined, issued, done, imposed and held in accordance with law.

Validation of proceedings since repeal of Regulation VI of 1819 in Panjáb.

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## ACT No. II OF 1879.

*Received the Governor General's assent on the 19th of February, 1879.*

## An Act to make better provision for recording evidence in the Central Provinces.

WHEREAS, in order to provide for the recording of evidence in civil suits in the Central Provinces by the Judge in English or in his own language, it is

Preamble.

expedient to amend the Central Provinces Laws Act, 1875; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Central Provinces Laws Act, 1879;"

Commencement.

And it shall come into force at once.

Addition to Act XX of 1875.

2. The following sections shall be deemed to have been added to the said Central Provinces Laws Act, 1875, immediately after the Code of Civil Procedure came into force, that is to say:—

11. [See *supra*, p. 140.]

12. [See *supra*, p. 140.]

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## ACT No. VI OF 1879.

*Received the Governor General's assent on the 22nd of March, 1879.*

## An Act for the preservation of wild elephants.

Preamble.

WHEREAS it is expedient to provide for the preservation of wild elephants; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Elephants Preservation Act, 1879:"

Local extent.

It extends to the territories now respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, British Burma and Coorg;

and the Local Government may, with the previous sanction of the Governor General in Council, extend it to any other local area by notification in the local official Gazette.

Commencement.

So far as regards the power to make declarations and rules, it shall come into force on the passing thereof. In other respects it shall come into force on the first day of April, 1879.

Repeal.

2. The words "kills or catches elephants," in section 25, clause (*i*), of the Indian Forest Act, 1878, and the words "killing or catching elephants," in section 31, clause (*j*), of the same Act, shall be repealed in every local area to which this Act extends or is extended.

Killing and capture of wild elephants prohibited.

3. No person shall kill, injure or capture, or attempt to kill, injure or capture, any wild elephant unless—

(*a*) in defence of himself or some other person;

(*b*) when such elephant is found injuring houses or cultivation, or upon, or in the immediate vicinity of, any main public road or any railway or canal; or

(*c*) as permitted by a license granted under this Act.

Rights of

4. Every elephant captured, and the tusks of every elephant killed, in any

of the cases mentioned in section 3, clauses (*a*) and (*b*), by any person not licensed under this Act, shall be the property of Government.

Government with respect to certain elephants and tusks.

5. The Collector or Deputy Commissioner of any district may, subject to such rules as may for the time being be in force under this Act, grant licenses to kill, or to capture, or to kill and capture, wild elephants in such district :

License to kill and capture wild elephants.

Provided that no such license shall authorize any person to enter upon any land without the consent of the owner or occupier thereof.

6. The Local Government may from time to time, subject to the control of the Governor General in Council,

Power of Local Government

declare what shall be deemed to be main public roads and canals within the meaning of this Act, and

to declare what are main roads and canals,

make rules consistent with this Act for regulating

and to make rules as to licenses.

(*a*) the grant and renewal of licenses under this Act,

(*b*) the fees (if any) in money, tusks or captured elephants to be charged on such grant and renewal,

(*c*) the time during which such licenses shall continue in force, and

(*d*) the conditions (if any) on which they shall be granted.

All such declarations and rules shall be published in the local official Gazette and shall thereupon have the force of law.

7. Whoever, in contravention of section 3, kills, injures or captures, or attempts to kill, injure or capture, any wild elephant, shall be punished with fine which may extend to five hundred rupees for each elephant concerned;

Penalty for contravening section 3.

and whoever breaks any condition contained in a license granted under this Act shall be punished with fine which may extend to five hundred rupees.

Any person convicted of a second offence under this section shall be punished with imprisonment which may extend to six months, or with fine, or with both.

When any person holding a license under this Act is convicted under this section, such license shall become void and shall be delivered up to the convicting Magistrate.

8. Any officer of Revenue or Police, or any Forest-officer, who may find any person killing, injuring or capturing, or attempting to kill, injure or capture, any wild elephant, except in the cases mentioned in section 3, clauses (*a*) and (*b*), may require him to produce and shew a license granted to him under this Act.

License to be produced and shewn on requisition of certain officers.

Any person who, on such request, wilfully refuses or is unable to produce and shew such license as aforesaid, shall, in addition to any other

punishment to which he may be liable under this Act, be punished with fine which may extend to one hundred rupees.

Limitation of prosecution.

9. Every prosecution under this Act shall be commenced within six months from the commission of the offence in respect of which it is instituted.

Recovery of fees.

10. The amount or value of any fee payable under any license granted under this Act may be recovered from the licensee as if it were an arrear of land-revenue.

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## ACT No. X OF 1879.

*Received the Governor General's assent on the 23rd of May, 1879.*

## An Act to provide for the recovery of certain advances made to Landholders.

Preamble.

WHEREAS it is expedient to provide for the recovery of certain advances made in the territories respectively administered by the Lieutenant-Governors of the North-Western Provinces and the Panjáb and the Chief Commissioners of Oudh, the Central Provinces, Assam and Ajmer, for certain purposes other than those specified in the Land Improvement Act, 1871; It is hereby enacted as follows :—

Short title.

Commencement.

1. This Act may be called "The Northern India Takkáví Act, 1879;" and shall come into force on the first day of July, 1879.

Act IV of 1872, section 52, repealed.

2. On and from that day, the fifty-second section added to the Panjáb Laws Act, 1872, by Act No. XII of 1878[a] (*An Act for the further amendment of the Panjáb Laws Act, 1872*), shall, except as to advances made before that day, be repealed.

Recovery of certain takkáví advances.

3. The Local Government may from time to time, with the previous sanction of the Governor General in Council, prescribe rules as to advances to be made to owners and occupiers of arable land, for the relief of distress, the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Act, 1871, but connected with agricultural objects.

All such rules shall be published in the local official Gazette.

Every advance made in accordance with such rules shall, when it becomes due, be recoverable from the person to whom it was made, or from any person who has become surety for the repayment thereof, as if it was an arrear of land-revenue due by the person to whom the advance was made or by his surety.

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[a] See Panjáb Code, p. 207.

## ACT No. XIV OF 1879.

*Received the Governor General's assent on the 5th of September, 1879.*

# An Act for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments; It is hereby enacted as follows:— Preamble.

1. This Act may be called "The Hackney-carriage Act, 1879": and it shall come into force at once; Short title. Commencement.

but nothing herein contained shall affect any power conferred by any law relating to municipalities, or any rule made in exercise of any such power. Saving.

2. In this Act— Interpretation-clause.

"Hackney-carriage" means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept, or offered, or plies, for hire; and

"Committee" means a Municipal Committee, or a body of Municipal Commissioners, constituted under the provisions of any enactment for the time being in force.

3. The Lieutenant-Governors of the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Assam, Ajmer and Coorg, may, by notification in the official Gazette, apply this Act to any municipality in the territories administered by them respectively. Application of Act to municipalities.

When this Act has been so applied to any municipality, the committee of such municipality may, from time to time, make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits. Power of committees to make rules.

Every rule made under this section shall, when confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe, have the force of law: Confirmation and publication of rules.

Provided that the Local Government may, at any time, rescind any such rule. Power of Local Government to rescind rules.

4. The Local Government of any of the said territories may from time to time, subject to the control of the Governor General in Council, make rules for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it; and Power to make rules for cantonments.

the Governor General in Council may, from time to time, make rules for the regulation and control of hackney-carriages in any place in India, but not in British India, in which British troops are cantoned.

All rules made under this section when published for such time and in such manner as the authority making the same may, from time to time, prescribe, shall have the force of law.

Power to extend operation of rules beyond limits of municipality or cantonment.

5. The authority making any rules under this Act may extend their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned:

Provided that such extension shall be made, in the case of a municipality, with the sanction of the Local Government, and, in the case of a cantonment situate in British India, subject to the control of the Governor General in Council.

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor General in Council, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality.

What rules under sections 3 and 4 may provide for.

6. The rules to be made under section 3 or section 4 may, among other matters,—

(*a*) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf;

(*b*) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf;

(*c*) provide for the issue of the licenses referred to in clauses (*a*) and (*b*), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor;

(*d*) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise;

(*e*) provide for the inspection of the premises on which any such carriages, animals, harness and other things are kept;

(*f*) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension;

(*g*) provide for the numbering of such carriages;

(*h*) determine the times at which, and the circumstances under which, any

person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same;

(*i*) appoint places as stands for hackney-carriages and prohibit such carriages waiting for hire except at such places;

(*j*) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage; and prescribe the minimum speed at which such carriages when hired by time shall be driven;

(*k*) limit the number of persons, and the weight of property, which may be conveyed by any such carriage;

(*l*) require the owner or person in charge of any such carriage to keep a printed list of fares in English and such other language as may be prescribed affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list;

(*m*) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorized by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges, and

(*n*) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

**Penalty for breach of rules.**

**7.** Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

**Disposal of fees and payment of expenses.**

**8.** The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall in any municipality be credited and debited respectively to the municipal fund, and in any cantonment where there is a cantonment-fund, to such fund.

**Power of Magistrate to decide disputes regarding fares.**

**9.** If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen; and such Magistrate or bench may, besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or bench thinks fit.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.

The decision of any Magistrate or bench in any case under this section shall be final.

When any such case is heard by a bench, any difference of opinion arising

between the members of such bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

In case of dispute, hirer may require driver to take him to Court.

10. If at the time any dispute mentioned in section 9 arises, any Magistrate or bench of Magistrates having jurisdiction in respect of such dispute is sitting within the local limits to which the rules apply, the hirer of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate or bench for the purpose of making an application under that section.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

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## ACT No. XX of 1879.

*Received the Governor General's assent on the 14th of November, 1879.*

## An Act to provide for the better prevention of Glanders and Farcy among Horses.

Preamble.

WHEREAS it is expedient to provide for the better prevention of glanders and farcy among horses; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Glanders and Farcy Act, 1879":

Local extent.

It extends to the whole of British India, except the territories respectively administered by the Governor of Fort St. George in Council, the Governor of Bombay in Council and the Lieutenant-Governor of Bengal;

Commencement.

and it shall come into force at once.

Interpretation-clause.

2. In this Act, unless there is something repugnant in the subject or context,—

"horse:"

"horse" includes also ponies, asses, mules and jennets:

"diseased."

"diseased" means affected with glanders or farcy.

Local Government may apply Act.

3. The Local Government may, by notification in the official Gazette, apply this Act, or any provision of this Act, to any local area, to be specified in such notification, within the territories administered by it, and may in like manner amend or cancel any such notification.

Local Government to appoint Inspectors.

4. When this Act has been so applied to any local area, the Local Government may, by notification in the official Gazette, appoint either by name or by virtue of their office such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of such local area or

such portions thereof as it may from time to time prescribe, the powers conferred and the duties imposed by this Act on such officers.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code.

Inspector's power to seize horse.

5. Within the local limits for which he is so appointed, any such inspector may seize any horse which he has reason to believe, from personal knowledge or from information given by any person and taken down in writing, is diseased.

Power of entry and search given to Inspectors.

6. For the purpose of making such seizure, such Inspector may, subject to such rules as the Local Government may from time to time make in this behalf, enter and search any field, building or other place where he has reason to believe that any such horse is to be found.

Horse to be examined by Veterinary Surgeon.

7. On any such seizure, the Inspector shall cause the horse so seized to be examined as soon as possible by such Veterinary Surgeon as the Local Government may from time to time appoint in this behalf.

Horse to be destroyed if found diseased; otherwise restored.

8. If such Surgeon certifies in writing that such horse is diseased, the Inspector shall cause the same to be immediately destroyed; but if such Surgeon does not so certify, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

When horse diseased, place where it has been to be disinfected, &c.

9. When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of such building, shed, place or lines, or the person in charge thereof, directing him to have the same disinfected, and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may from time to time by rule prescribe, destroyed.

On the failure or neglect of such owner or other person to comply with such notice within a reasonable time, the Inspector shall cause such building, shed, place or lines to be disinfected, and such fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from such owner or other person as if it were a fine.

Owner or person in charge of diseased horse to give notice.

10. The owner or any person in charge of a diseased horse shall give immediate information of such horse being diseased to the Inspector or to some officer of Police.

Prohibition against removal, without license, of horse which has been with diseased horse.

11. No person in charge of any horse which has been in the same field, building or place or in contact with a diseased horse shall move such horse, except in good faith for the purpose of preventing infection or under a license to be granted by the Inspector and subject to the conditions of such license.

Vexatious entries, searches and seizures.

**12.** Any Inspector who, without reasonable ground of suspicion, enters or searches any field, building or other place, or vexatiously and unnecessarily seizes or detains any horse on the pretence that it is diseased, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

Penalty for refusing to comply with notice under section 9; or moving horse contrary to section 11.

**13.** Any person who refuses or neglects to comply with any notice issued by the Inspector under section nine, or who moves any horse in contravention of section eleven, shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Power to make rules.

**14.** The Local Government may, from time to time, make rules, consistent with this Act,—

(*a*) for regulating entries and searches by Inspectors under this Act;

(*b*) for regulating the destruction of horses certified under section eight to be diseased, and the disposal of the carcases of such horses;

(*c*) for regulating the disinfecting of buildings and places in which diseased horses have been, and for prescribing what things found therein or near thereto shall be destroyed;

(*d*) for regulating the grant of licenses under section eleven, and the conditions on which such licenses shall be granted; and

(*e*) generally for carrying out the purposes of this Act.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Any person breaking a rule made under this section shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Legalization of destruction of diseased horses previous to passing of Act.

**15.** All diseased horses destroyed under the orders of the Governor General in Council or the Local Government in the districts of Ráwalpindí and Pesháwar previous to the passing of this Act shall be deemed to have been destroyed in accordance with law.

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# THE VACCINATION ACT, 1880.

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## ACT No. XIII OF 1880.

*Received the Governor General's assent on the 9th of July, 1880.*

An Act to give power to prohibit inoculation, and to make the vaccination of children compulsory, in certain Municipalities and Cantonments.

WHEREAS it is expedient to give power to prohibit inoculation, and make the vaccination of children compulsory, in certain municipalities and cantonments; It is hereby enacted as follows:— Preamble.

1. This Act may be called "The Vaccination Act, 1880": and Short title.

it shall apply only to such municipalities and cantonments situate in the territories administered respectively by the Lieutenant-Governors of the Application.

North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Assam, Ajmer and Coorg as it may be extended to in manner hereinafter provided.

Interpretation-clause.

2. In this Act, unless there is something repugnant in the subject or context,—

"Municipal Commissioners":

(1) the expression "Municipal Commissioners" means a body of Municipal Commissioners or a Municipal Committee constituted under the provisions of any enactment for the time being in force:

"parent":

(2) "parent" means the father of a legitimate child and the mother of an illegitimate child:

"guardian":

(3) "guardian" includes any person who has accepted or assumed the care or custody of any child:

"unprotected child":

(4) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination:

"inoculation":

(5) "inoculation" means any operation performed with the object of producing the disease of small-pox in any person by means of variolous matter:

"vaccination-circle":

(6) "vaccination-circle" means one of the parts into which a municipality or cantonment has been divided under this Act for the performance of vaccination:

"vaccinator":

(7) "vaccinator" means any vaccinator appointed under this Act to perform the operation of vaccination, or any private person authorized by the Local Government in manner hereinafter provided to perform the same operation; and includes a "Superintendent of vaccination":

"vaccination-season".

(8) "vaccination-season" means the period from time to time fixed by the Local Government for any local area under its administration by notification in the official Gazette, during which alone vaccination may be performed under this Act.

Extension of Act to municipalities.

3. A majority in number of the persons present at a meeting of the Municipal Commissioners specially convened in this behalf may apply to the Local Government to extend this Act to the whole or any part of a municipality and thereupon the Local Government may, if it thinks fit, by notification published in the official Gazette, declare its intention to extend this Act in the manner proposed.

Any inhabitant of such municipality or part thereof who objects to such extension may, within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration. When six weeks

from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient, may by like notification effect the proposed extension.

**Extension to cantonments.**

4. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, extend this Act to the whole or any part of a military cantonment.

**Power to withdraw local area from operation of Act.**

5. The Local Government may, by notification in the official Gazette, withdraw any local area in a municipality, or with the previous sanction of the Governor General in Council, any local area in a cantonment, from the operation of this Act.

**Prohibition of inoculation.**

6. In any local area to which the provisions of this Act apply, inoculation shall be prohibited; and

**Inoculated persons not to enter, without certificate local area subject to Act.**

no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

**Vaccination-circles.**

7. Every local area to which this Act applies shall be a vaccination-circle, or shall in manner hereinafter provided be divided into a number of such circles;

**Vaccinators;**

one or more vaccinators shall be appointed in manner hereinafter provided for each such circle; and

**Superintendent of vaccination.**

one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

**Private vaccinators.**

8. The Local Government may by written license authorize private vaccinators to perform vaccination in any vaccination-circle, and may suspend or cancel any such license.

**Unprotected children to be vaccinated.**

9. When any unprotected child, having attained the age of six months, has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the expiration of such period attained the age, if a boy, of fourteen years, and if a girl, of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it.

**Vaccinator to vaccinate children, or deliver certificates of postponement.**

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation, or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to

the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination-season.

Inspection after vaccination.

**10.** The parent or guardian of every child which has been vaccinated under section nine shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection, or get it inspected at his own house by a vaccinator; and

such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

Procedure when vaccination is successful.

**11.** When it is ascertained at the time of inspecting a child under section ten that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected.

Procedure when vaccination is unsuccessful.

**12.** When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided.

Procedure when child is unfit for vaccination.

**13.** A certificate granted under section nine showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and on the termination of that period, or, if that period terminates after the vaccination-season is over, when the next vaccination-season begins, the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator:

Renewal of postponement certificates.

Provided that if the child is still found to be in a state unfit for vaccination, the certificate granted under section nine shall be renewed.

Certificates of insusceptibility of successful vaccination.

**14.** If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

What lymph to be used.

**15.** The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act:

Provided that,

1*st*, if animal-lymph is so prescribed and the parent or guardian of any child desires that such child shall be vaccinated with human lymph, it shall be so vaccinated; and

2*nd*, if in any local area in which animal-lymph is procurable human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal-lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

**16.** No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act:

No fee to be charged except by private vaccinator.

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed.

Proviso.

**17.** The Superintendent of vaccination, in addition to the other duties imposed on him by or under the provisions of this Act, shall ascertain whether all unprotected children, under the age of fourteen years if boys, and under the age of eight years if girls, within the local area under his superintendence have been vaccinated; and, if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make enquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice.

Duties of Superintendent of vaccination.

Notice to parent or guardian neglecting to comply with Act.

**18.** If such notice is not complied with, the Superintendent of vaccination shall report the matter to the Magistrate of the District, or such Magistrate as the Local Government or the Magistrate of the District may from time to time appoint in this behalf; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Order by Magistrate when notice not complied with.

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and, unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section twenty-two.

Procedure when order not obeyed.

The Magistrates appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government.

Magistrates to be non-official Natives.

**19.** When this Act has been applied to any municipality or any part thereof, the Municipal Commissioners may, from time to time, make rules consistent with this Act for the proper enforcement of this Act within the limits to which it applies. Such rules shall be made in the manner in which, under the law for the time being in force, the Commissioners make rules or bye-laws for the regulation of other matters within the limits of the

Power to make rules for municipalities.

municipality, and shall, when confirmed by the Local Government and published in the official Gazette, have the force of law:

Provided that the Local Government may at any time rescind or modify any such rule.

Power to make rules for cantonments.

**20.** When this Act has been applied to any cantonment or any part thereof, the Local Government may, from time to time, subject to the control of the Governor General in Council, make such rules.

What rules under sections 19 and 20 may provide for.

**21.** The rules to be made for any local area under sections nineteen or twenty may, among other matters, provide for—

(*a*) the division of such local area into circles for the performance of vaccination;

(*b*) the appointment of a place in each vaccination-circle as a public vaccine-station, and the posting of some distinguishing mark in a conspicuous place near such station;

(*c*) the qualifications to be required of public vaccinators and Superintendents of vaccination;

(*d*) the authority with which their appointment, suspension and dismissal shall rest;

(*e*) the time of attendance of public vaccinators at the vaccine-stations, and their residence within the limits of the vaccination-circles;

(*f*) the distinguishing mark or badge to be worn by them;

(*g*) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties;

(*h*) the facilities to be afforded to people for procuring the vaccination of their children at their own houses;

(*i*) the grant and form of certificates of successful vaccination, of unfitness for vaccination or of insusceptibility of vaccination;

(*j*) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph;

(*k*) the fee to be paid for vaccination with animal-lymph under section fifteen;

(*l*) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination-circle at the request of the parent or guardian of the said child;

(*m*) the preparation and keeping of registers showing—

the names of children born in such local area on or after the date of the application of this Act;

the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight years if girls;

the names of unprotected boys and girls respectively under those ages brought within such local area at any time after the application of this Act and who have resided there for a month;

the result of each vaccination or its postponement, and the delivery of certificates, if any;

(*n*) the assistance to be given by the Municipal Commissioners and municipal servants in the preparation of these registers, and in other matters; and

(*o*) the preparation of vaccination-reports and returns.

**22.** Whoever commits any of the undermentioned offences (that is to say):— **Punishment of offences.**

(*a*) violates the provisions of section six,

(*b*) neglects without just excuse to obey an order made under section eighteen,

(*c*) breaks any of the rules made under section nineteen or twenty, or

(*d*) neglects without just cause to obey an order made under section eighteen after having been previously convicted of so neglecting to obey a similar order made in respect of the same child,

shall be punished as follows (that is to say):—

in the case of the offence mentioned in clause (*a*), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both;

in the case of the offences mentioned in clauses (*b*) and (*c*), with fine which may extend to fifty rupees; and

in the case of the offence mentioned in clause (*d*), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**23.** The amount of all fees and fines realized, and the amount of all expenditure incurred, under this Act in any municipality shall respectively be credited to and paid from the municipal fund. **Municipal funds to receive fines and meet expenditure.**

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# THE CENTRAL PROVINCES LAND-REVENUE ACT, 1881.

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SCHEDULE—ENACTMENTS REPEALED.

## ACT No. XVIII OF 1881.

*Received the Governor General's assent on the 8th of June, 1881.*

# An Act to consolidate and amend the law relating to Land-revenue and the powers of Revenue-officers in the Central Provinces.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to Land-revenue and to the powers of Revenue-officers in the Central Provinces; It is hereby enacted as follows :—

## PART I.

### CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be called "The Central Provinces Land-revenue Act, 1881":

Local extent.

It extends to all the territories for the time being under the administration of the Chief Commissioner of the Central Provinces, except those specified in Part VI of the first schedule of the Scheduled Districts Act, 1874:

Commencement.

and it shall come into force on such day as the Chief Commissioner, with the previous sanction of the Governor General in Council, may direct by notification in the local official Gazette.

Enactments repealed.

2. On and from such day the enactments mentioned in the schedule hereto annexed, so far as they relate to the territories to which this Act extends, and all other rules, regulations and enactments relating to the settlement and collection of the land-revenue in such territories, shall be repealed.

Pending proceedings.

3. All proceedings relating to matters dealt with by this Act and, when this Act comes into force, pending before officers by whom they would be cognizable under this Act, shall be deemed, so far as may be, to have been commenced hereunder.

Interpretation-clause.

4. In this Act, unless there is something repugnant in the subject or context,—

"Assistant Commissioner":

(1) "Assistant Commissioner" includes also "Extra Assistant Commissioner":

"Legal practitioner":

(2) "Legal practitioner" means an advocate, vakíl or attorney of any High Court, a pleader, mukhtár or revenue-agent:

"Village-cess":

(3) "Village-cess" means any cess which a person resident or holding lands in a village pays or renders to the proprietors as such of the village, and includes service rendered or things furnished as well as money paid:

"Recognized agent":

(4) "Recognized agent" means a person authorized in writing by any party to a proceeding under this Act to make appearances and applications and

to do other acts on his behalf in such proceeding and also belonging to any class which the Chief Commissioner may, from time to time, by notification in the official Gazette, declare in this behalf:

"Agricultural year":

(5) "Agricultural year" means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified district or districts, from time to time, appoint:

"Sír-land":

(6) "Sír-land" means (*a*) land recorded as 'sír' in the papers of the last preceding settlement of the local area in which such land is situate; and (*b*) land not so recorded, but which has been cultivated by the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years; and (*c*) waste land which has been broken up by the proprietor or one of the proprietors thereof and cultivated by him for a period of not less than six consecutive years; and (*d*) in Sambalpúr, includes also 'bhogra' land.

*Explanation.*—Land which has, after the date of such settlement, or the expiry of such period of twelve years, or six years (as the case may be), been for a period of six consecutive years unoccupied by such proprietor is not sír-land. Land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sír-rights:

"Mahál":

(7) "Mahál" means any local area held under a separate engagement for the payment of the land-revenue direct to Government, and includes also any local area declared, under the provisions of this Act, to be a mahál:

"Village":

(8) "Village" includes any tract of land which, at the last settlement of such land, has been recognized as a village, or which the Chief Commissioner may, from time to time, declare to be a village for the purposes of this Act:

"Málguzár":

(9) "Málguzár" means a person who, under the provisions of this Act, has accepted, or is to be deemed to have accepted, the assessment of a mahál, and includes his representatives and assigns; and also any person with whom a settlement has been made before this Act comes into force, and his representatives and assigns:

"Málik-makbúzá":

(10) "Málik-makbúzá" means any person owning one or more plots of land assessed with revenue in a mahál; but it does not include a málguzár or inferior proprietor:

"Lambardár":

(11) "Lambardár" means a person appointed in manner prescribed by this Act to represent the proprietary body of a mahál in its relations with the Government:

"Sub-lambardár":

(12) "Sub-lambardár" means a person so appointed to represent the inferior proprietary body of a mahál in its relations with the superior proprietors:

"Mukaddam":

(13) "Mukaddam" means the executive headman of a village, appointed in manner prescribed by this Act:

"Tenant": (14) "Tenant" means a person who holds land of another person, and is, or but for a special contract would be, liable to pay rent for such land to such other person; but it does not include a farmer, mortgagee or thekadár of proprietary rights:

*Explanation.*—An inferior proprietor is not, as such, a tenant:

"Rent": (15) "Rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him:

"Absolute occupancy-tenant": (16) "Absolute occupancy-tenant" means, in reference to any land, a tenant who, at a settlement of such land made before this Act comes into force, or after such a settlement but before this Act comes into force, was recorded, by order of a Revenue or Settlement-officer, in respect of such land, as an "absolute occupancy-raiyat," or in terms equivalent thereto:

"Record-of-rights." (17) "Record-of-rights" includes the supplementary administration-paper prepared at or after the time of making a settlement before this Act comes into force.

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# PART II.

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## CHAPTER II.—Of Revenue-officers: their Powers and Procedure.

Chief Controlling Revenue-authority. 5. The Chief Commissioner shall, subject to the control of the Governor General in Council, be the Chief Controlling Revenue-authority.

Revenue-officers. 6. Besides the Chief Commissioner, there shall be the following classes of Revenue-officers (namely):—

(*a*) Commissioners, who, subject to the control of the Chief Commissioner, shall be the Chief Revenue-authorities within their respective divisions:

(*b*) Deputy Commissioners, who, subject to the control of the Commissioner, shall be the Chief Revenue-authorities within their respective districts.

(*c*) Assistant Commissioners, who shall be subordinate to, and under the control of, the Deputy Commissioners of the districts to which they are respectively attached:

(*d*) Tahsíldárs, who, subject to the control of the Deputy Commissioner, shall be the Chief Executive Revenue-authorities in the tahsíls to which they are respectively attached:

(*e*) Náib Tahsíldárs, who shall be subordinate to the Tahsíldárs of the tahsíls to which they are respectively attached.

7. Subject to the control of the Governor General in Council, the Chief Commissioner shall appoint, and may suspend or remove, Commissioners, Deputy Commissioners and Assistant Commissioners.

Appointment, suspension and removal of Commissioners, &c.:

8. The Chief Commissioner shall appoint, and may suspend or remove, Tahsíldárs; and may also make rules for regulating the appointment, duties, suspension and removal of Náib Tahsíldárs.

of Tahsíldárs and Náib Tahsíldárs.

9. All Commissioners, Deputy Commissioners, Assistant Commissioners, Tahsíldárs and Náib Tahsíldárs holding office as such in the territories to which this Act extends when this Act comes into force shall be deemed to have been appointed hereunder.

Persons holding office when Act comes into force.

10. The Chief Commissioner may appoint any person to be an additional Tahsíldár in any tahsíl, or, with the sanction of the Governor General in Council, to be an additional Commissioner or additional Deputy Commissioner in any division or district, and may suspend or remove any person so appointed, but subject, in the case of an additional Commissioner or additional Deputy Commissioner, to the like sanction.

Power to appoint additional Commissioners, Deputy Commissioners and Tahsíldárs.

The Chief Commissioner may invest an additional Commissioner, Deputy Commissioner or Tahsíldár appointed under this section with all or any of the powers conferred by this Act on a Commissioner, Deputy Commissioner or Tahsíldár, as the case may be.

11. The Chief Commissioner may invest any Assistant Commissioner attached to a district with all or any of the powers conferred by this Act on Deputy Commissioners.

Power to invest Assistant Commissioner with powers of Deputy.

12. Whenever any Assistant-Commissioner, Tahsíldár or Náib Tahsíldár is transferred from one district or tahsíl to another, he shall, unless the Chief Commissioner otherwise directs, exercise in the district or tahsíl to which he is transferred all the powers with which he was, under any provision of this Act, invested by the Chief Commissioner in the district or tahsíl from which he is transferred.

Officers transferred to retain powers with which they were invested.

13. When a Deputy Commissioner dies or is disabled from performing his duties, such officer as the Chief Commissioner may by rule direct shall take executive charge of his district, and shall be deemed to be a Deputy Commissioner under this Act, until a successor to the Deputy Commissioner so dying or disabled is appointed and such successor takes charge of his office, or until the person so disabled resumes charge of his office.

Provision for discharge of duties of Deputy Commissioner dying or being disabled.

14. The Chief Commissioner may, from time to time, by notification in the official Gazette, alter the limits of any district or tahsíl, create new districts or tahsíls and abolish existing districts or tahsíls.

Chief Commissioner may alter limits of district or tahsíl.

15. The Chief Commissioner may, subject to the control of the Governor

Power to

invest Revenue-officers with,—

General in Council, invest any Revenue-officer with any of the following powers :—

power conferred by Code of Civil Procedure;

for the purpose of disposing of cases under this Act, any power conferred by the Code of Civil Procedure on a Civil Court;

power to delegate powers.

power to delegate to any Revenue-officer subordinate to him the exercise of any power or performance of any duty conferred or imposed on him by this Act;

and, subject to the like control, may determine the Revenue-officer by whom any case or class of cases for which no express provision in this behalf is made in this Act shall be disposed of.

Power of Deputy Commissioner to distribute work.

**16.** Subject to any rules which the Chief Commissioner may make in this behalf, a Deputy Commissioner may—

(*a*) refer any case to any Revenue-officer subordinate to him for investigation and report, or, if such officer has power to dispose of such case, for disposal; or

(*b*) direct that any Revenue officer subordinate to him shall, without such reference, deal with any case or class of cases arising within any specified area, and either investigate and report on such case or class, or, if he has power, dispose of it himself.

The subordinate Revenue-officer shall submit his report on any case referred to him under this section for report to the Deputy Commissioner, or otherwise, as may be directed in the order of reference; and the officer receiving such report may, if he has power to dispose of the case, dispose of the same, or may return it for further investigation to the officer submitting the report, or may hold such investigation himself.

Power of superior Revenue-authorities to withdraw and transfer cases.

**17.** The Chief Commissioner, the Commissioner or the Deputy Commissioner may withdraw any case pending before any Revenue-officer subordinate to him, and either dispose of it himself, or refer it for disposal to any other Revenue-officer subordinate to him and having power to dispose of the same.

Power of Revenue-officers to enter on land, &c.

**18.** All Revenue-officers and persons acting under their orders may, in the performance of any duty under this Act, enter upon and survey land, and demarcate boundaries, and do all other acts necessary to the business in which they are engaged.

Power to make rules to regulate procedure.

**19.** The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for regulating the procedure of Revenue-officers in cases for which a procedure is not prescribed by this Act, and may, by any such rule, direct that any provisions of the Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before Revenue-officers.

**20.** All appearances before, applications to, and acts to be done before, any Revenue-officer under this Act may be made or done—

(*a*) by the parties themselves; or

(*b*) with the permission of the officer, by their recognized agents or any legal practitioner:

Persons by whom appearances and applications may be made before and to Revenue-officers.

Provided that the employment of a legal practitioner or recognized agent shall not excuse the personal attendance of a party to any proceeding in cases where such attendance is required by any order of the Revenue-officer.

Obligation of parties to attend in person.

**21.** The fees of a legal practitioner or recognized agent shall not be allowed as costs before any Revenue-officer unless such officer considers, for reasons to be recorded by him in writing, that such fees should be allowed.

Allowing legal practitioner's or agent s fees.

**22.** An appeal shall lie against every decision or order under this Act—

Appeals.

(*a*) when such decision or order is passed by any Revenue-officer subordinate to the Deputy Commissioner, except an Assistant Commissioner exercising the powers of a Deputy Commissioner, —to the Deputy Commissioner;

(*b*) when such decision or order is passed by a Deputy Commissioner, or by an Assistant Commissioner exercising the powers of a Deputy Commissioner, whether in the first instance or on appeal,—to the Commissioner of the division;

(*c*) when such decision or order is passed on appeal or otherwise by the Commissioner of a division,—to the Chief Commissioner:

Provided that in no case shall a third appeal be allowed.

**23.** No appeal shall lie—

Limitation of appeals.

(*a*) in the Court of the Deputy Commissioner or an Assistant Commissioner exercising the powers of a Deputy Commissioner—after the expiration of thirty days from the date of the decision or order complained of; or

(*b*) in the Court of the Commissioner—after the expiration of sixty days from such date; or

(*c*) in the Court of the Chief Commissioner—after the expiration of ninety days from such date.

In computing such periods of limitation, and in all respects not herein specified, the provisions of the Indian Limitation Act, 1877, shall apply.

**24.** Any Commissioner or Deputy Commissioner may at any time, for the purpose of satisfying himself as to the legality or propriety of any order passed by, and as to the regularity of the proceedings of, any Revenue-officer subordinate to him, call for and examine the record of any case pending before, or disposed of by, such officer, and may pass such order in reference thereto as he thinks fit: Provided that he shall not under this section modify or reverse any order affecting any question of right between private persons, without

Powers of revision of Commissioner and Deputy Commissioner.

having given to the parties interested reasonable notice to appear and be heard in support of such order.

Powers of revision of Chief Commissioner.

**25.** The Chief Commissioner may at any time call for and examine the record of any case pending before, or disposed of by, any Revenue-officer, and may pass such order in reference thereto as he thinks fit:

Provided that no order affecting any question of right between private persons shall be passed under this section unless the Chief Commissioner has given the parties interested an opportunity of being heard.

Review of orders.

**26.** Every Revenue-officer may, either on his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, orders passed by himself or by any of his predecessors in office:

Provided as follows—

(1) when a Commissioner or Deputy Commissioner thinks it necessary to review any order which he has not himself passed, and when an officer under the rank of a Deputy Commissioner proposes to review any order, whether passed by himself or by any predecessor, he shall first obtain the sanction of the officer to whom he is immediately subordinate:

(2) no order shall be modified or reversed unless reasonable notice has been given to the parties interested to appear and be heard in support of such order:

(3) no order against which an appeal has been preferred shall be reviewed while such appeal is pending:

(4) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings; and no application for the review of such an order shall be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within such period..

For the purposes of this section, the Deputy Commissioner shall be deemed to be the successor in office of any Revenue-officer who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

## PART III.

### OF SURVEY AND SETTLEMENT.

#### CHAPTER III.—PRELIMINARY.

Notification

**27.** Whenever it appears to the Chief Commissioner that a revenue-survey

should be made in any local area, he shall publish a notification in the official Gazette directing that such survey be made, and cause translations of such notification in the language of the district to be posted up in conspicuous places in such area; and thereupon all officers in charge of such survey, their assistants, servants, agents and workmen may enter upon the lands to be surveyed, and erect survey-marks, and do all other acts necessary for making the survey.

of revenue-survey.

Effect thereof.

**28.** When any local area is to be settled, the Chief Commissioner may, with the previous sanction of the Governor General in Council, issue a notification of settlement, and in such notification shall—

Notification of settlement.

(*a*) define the local area to be settled;

(*b*) specify the operations which are to be carried out in the settlement;

and may from time to time, with the like sanction, amend, alter or cancel such notification.

Power to amend notification.

Every such notification, amendment, alteration and cancellation shall be published in the local official Gazette.

**29.** The Chief Commissioner may from time to time appoint one or more officers (hereinafter called Settlement-officers) to make the settlement of such area; and when he appoints more than one such officer, he shall appoint one of them (hereinafter called the Chief Settlement-officer) to control such settlement, and all other officers appointed for the purposes of such settlement shall be subordinate to the Chief Settlement-officer.

Power to appoint Settlement-officers;

The Chief Commissioner may suspend or remove any officer appointed under this section.

and to suspend and remove them.

**30.** During the progress of the settlement of any local area, the Chief Commissioner may invest any Settlement-officer within such area with all or any of the powers of a Deputy Commissioner under this Act, to be exercised by him in such classes of cases as the Chief Commissioner may from time to time direct.

Settlement-officer may be invested with powers of Deputy Commissioner.

**31.** The provisions of section eleven and sections fifteen to twenty-six, both inclusive, shall apply, *mutatis mutandis*, to Settlement-officers and to proceedings before them, the expression "Settlement-officer" being read for the expressions "Assistant Commissioner" and "Revenue-officer," and the expression "Chief Settlement-officer" for the expression "Deputy Commissioner," wherever those expressions occur:

Certain provisions of Chapter II applied to Settlement-officers.

Provided that an appeal from any appealable order passed by a subordinate Settlement-officer shall lie to the Chief Settlement-officer if preferred within sixty days from the date of such order:

Provided also that no appeal shall lie from any decision of a Chief Settlement-officer which can be called in question in a Civil Court.

Appointment of Settlement-commissioner;

**32.** The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council,

(*a*) appoint a Settlement-commissioner, and transfer to him, within any local area under settlement, all or any of the powers which the Commissioner of the division, if the land to be settled were wholly situate within such division, would otherwise exercise under this Act in matters connected with such settlement; and

delegation to him of Chief Commissioner's powers.

(*b*) delegate to the Settlement-commissioner such of his own powers in regard to matters connected with such settlement as he thinks fit.

Power to invest Settlement-officers with Civil Court powers.

**33.** When any local area is under settlement, the Chief Commissioner may invest any subordinate Settlement-officer with the powers of any of the first five grades of Courts described in section four of the Central Provinces Courts' Act, 1865, and the Chief Settlement-officer with the powers of a Court of a Deputy Commissioner described in the same Act, sections twelve, nineteen and twenty, for the trial, in the first instance, of any of the following classes of suits instituted within such area (namely):—

(*a*) suits for arrears of rent due on account of any right of pasturage, forest-rights, fisheries or the like;

(*b*) suits by lambardárs for arrears of revenue payable through them by the proprietors whom they represent;

(*c*) suits by proprietors for their share of the profits of an estate or any part thereof after payment of the revenue and village-expenses, or for a settlement of accounts;

(*d*) suits by muáfidárs or assignees of revenue for arrears of revenue owing to them as such muáfidárs or assignees;

(*e*) suits by superior proprietors for arrears of revenue due to them as such superior proprietors;

(*f*) suits by proprietors and others in receipt of the rent of land against any agents employed by them in the management of land or collection of rents, or against the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession;

(*g*) suits regarding any matter which a Settlement-officer is required to decide or to enter in the record-of-rights, and of which Civil Courts can take cognizance;

(*h*) suits relating to land, or the rent, profits or occupation of land.

Chief Settlement-officer to have powers of

**34.** When the Chief Commissioner invests any subordinate Settlement-officer with the powers of a Civil Court for the trial of any of the suits mentioned in section thirty-three, the Chief Settlement-officer to whom such

Settlement-officer is subordinate shall have the powers of the Court of a Deputy Commissioner described in the Central Provinces Courts' Act, 1865, sections twelve, nineteen and twenty, with reference to proceedings before, or decrees and orders of, such Settlement-officer in such suits.

Deputy Commissioner.

**35.** When any local area is under settlement and Settlement-officers have been invested with the powers mentioned in section thirty-three in such local area, the Chief Commissioner may, with respect to all or to any of the suits specified in that section, declare that all or any of the decrees and orders passed in exercise of the powers of Courts of the first four grades aforesaid, by Assistant Commissioners or Tahsíldárs not being Settlement-officers, shall be appealable to the Chief Settlement-officer, and not to the Deputy Commissioner of the district.

Appeals in suits specified in section 33 when to lie to Chief Settlement-officer.

**36.** When any local area is under settlement and the Settlement-officers therein have been invested with powers under section thirty-three, the Chief Commissioner may withdraw from the jurisdiction of the ordinary Civil Courts within such area the classes of suits which Settlement-officers have power to dispose of under that section, or he may direct that, in respect of such suits, the Settlement-officers shall have concurrent jurisdiction with the ordinary Civil Courts:

Division of civil work between Settlement-officers and ordinary Courts.

Provided that no proceedings which have been inadvertently or erroneously taken before the Civil Court shall be deemed to be invalid merely on the ground that, by the Chief Commissioner's order, they should have been taken before a Settlement-officer.

**37.** Nothing in section thirty-one shall apply to suits and appeals or other proceedings instituted before, or determined by, Settlement-officers in pursuance of powers conferred upon them under section thirty-three, thirty-four or thirty-five.

Provisions of section 31 not to apply to certain suits.

**38.** Except as provided in sections thirty-three, thirty-four and thirty-five, the decrees and orders of a Settlement-officer passed, whether in the first instance or on appeal, in exercise of the powers of a Civil Court of any grade, shall, for the purposes of appeal, reference and revision, be deemed to be decrees and orders of a Civil Court of such grade, and no appeal shall lie under the provisions of section twenty-two from such decrees or orders.

Appeal, reference and revision.

**39.** Every settlement notified under section twenty-eight shall be deemed to be in progress until the Chief Commissioner, by notification in the official Gazette, declares that it is completed.

Duration of settlement-operations.

When the settlement of any local area has been notified as completed, all the powers exercised by the Settlement-officers in such area shall cease, and all suits and applications pending before such officers shall be transferred to such of the Courts ordinarily having jurisdiction in such cases as the

Cases pending at close of settlement-operations.

Commissioner of the division directs; or, if there are no such Courts, shall be disposed of in such manner as the Chief Commissioner directs.

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## CHAPTER IV.—Of Demarcation.

### *Unowned Lands.*

Settlement-officer to invite claims to lands appearing to have no owner.

**40.** When any local area is under settlement, the Settlement-officer shall make lists of all lands in such area which appear to him to have no lawful owner, and shall thereupon issue a notification declaring his intention to demarcate such lands as the property of the Government and inviting every person having claims to or over them to present in his Court, within three months from the date of the notification, a petition in writing setting forth such claims and the respective grounds thereof.

Application of Act XXIII of 1863.

**41.** Every such notification shall be deemed to be an advertisement under Act No. XXIII of 1863 *(to provide for the adjudication of claims to waste lands)*, section one;

the demarcation of such lands shall be deemed to be a disposition of them within the meaning of that Act;

the Settlement-officer shall exercise all the powers vested in the Collector by that Act; and

claims to or over the land comprised in such notification shall be dealt with as nearly as may be in the manner prescribed in that Act.

Procedure when limited right over land established.

**42.** Whenever a claim to the exercise or enjoyment of any right (not amounting to the right of exclusive possession) in, to or over, any land comprised in such notification is established, either before the Settlement-officer or before the Court constituted under the said Act No. XXIII of 1863, section seven, the Settlement-officer may assign to the claimant as his property a definite portion of such land, or, with the sanction of the Chief Commissioner, he may otherwise compensate the claimant; and such assignment or compensation shall be held to extinguish all claims on account of such exercise or enjoyment.

### *Mahâls.*

Power to form mahâls.

**43.** The Settlement-officer may declare any local area to be a mahâl.

### *Excluded Lands.*

Settlement-officer may exclude any town or land from settlement-operations.

**44.** For the purpose of excluding from all or any of the operations of the settlement any town or any land from which the owner can derive no profit, the Settlement-officer may mark off the site and determine the limits of such town or land:

Provided that no land in respect of which land-revenue is payable at the date of the notification issued under section twenty-eight shall, under this section, be exempted from assessment without the sanction of the Chief Commissioner.

*Boundary-marks.*

Erection of new, and repair of existing, boundary-marks.

**45.** When any local area is under settlement, the Settlement-officer may order all persons who have proprietary rights in the land comprised in such area to erect boundary-marks of such description and at such places as he thinks necessary in order to define the limits of the mahâls, fields or other lands in their possession, or to repair boundary-marks already existing; and may fix a reasonable time for obeying his order;

and if his order is not obeyed within such time, may cause such marks to be erected or repaired under his own orders, and may recover the cost of such erection or repair from the persons against whom his order was made, in such proportion as he thinks fit.

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## CHAPTER V.—Of the Assessment of Land-revenue.

Separate sum to be assessed on every mahâl.

**46.** On every mahâl a definite and separate sum shall be assessed as land-revenue; but the sum so assessed may be reduced in such manner and to such extent as the Chief Commissioner thinks fit, for any period not exceeding ten years from the date on which the assessment takes effect.

Progressive assessments.

Matters as to which Chief Commissioner is to instruct Settlement-officer.

**47.** The Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, give instructions to the Settlement-officer as to the principle on which land-revenue is to be assessed, and as to the sources of miscellaneous income to be taken into account in the assessment.

What land taken into account in assessing mahâl.

**48.** In assessing a mahâl all land situate therein shall be taken into account except the following (that is to say) :—

(*a*) land purchased free from revenue under any rules for the time being in force to regulate the sale of waste-lands;

(*b*) land in respect of which the revenue has been redeemed under any rules for the time being in force;

(*c*) land excluded from assessment under section forty-four;

(*d*) land in respect of which a claim to hold it free from revenue as against the Government is established under the provisions hereinafter contained;

(*e*) land which the Chief Commissioner, subject to the control of the Governor General in Council, may from time to time exempt from assessment.

Assessment to whom to be offered.

**49.** The assessment of every mahál shall be offered to the entire proprietary body of such mahál: provided that, when superior and inferior proprietary rights co-exist in the same mahál, the Settlement-officer may, subject to such rules as the Chief Commissionor may make in this behalf, determine whether the assessment shall be offered to the superior or to the inferior proprietors.

Subject to such rules as the Chief Commissioner may make in this behalf, the Settlement-officer may determine the manner and proportion in which the proprietary profits of the mahál shall be allotted between the superior and the inferior proprietors.

When a proprietor has mortgaged his rights in any mahál, and the mortgagee has entered into possession, such mortgagee, so long as he is in possession, shall, for the purposes of this section, stand in the place of the mortgagor.

Sub-settlement to be made with inferior proprietors when settlement is made with superior.

**50.** When in a mahál in which superior and inferior proprietors co-exist, the Settlement-officer makes a settlement with the superior proprietors, he shall make on their behalf a sub-settlement with the inferior proprietors, by which such inferior proprietors shall be bound to pay to the superior proprietors an annual revenue equal to the land-revenue with which the mahál is assessed and to the profits to which the superior proprietors are entitled under section forty-nine.

Power to give directions as to payment of certain profits of superior proprietors.

**51.** When in any such mahál the settlement is made with the inferior proprietors, the Settlement-officer may direct that the profits to which the superior proprietors are entitled under section forty-nine, shall be paid by the inferior proprietors direct to such superior proprietors, or that such profits shall be collected as if they were land-revenue and shall be paid to the superior proprietors from the Government Treasury.

Power to make rules for reporting assessment for sanction.

**52.** The Chief Commissioner may make rules prescribing the manner in which the Settlement-officer shall report for sanction his rates and method of assessment; and no assessment shall be offered without the previous sanction of the Chief Commissioner.

Offers of assessment to be made subject to revision and confirmation.

**53.** In making any offer of assessment the Settlement-officer shall state that it is made subject to confirmation by the Governor General in Council, and also to revision by the Chief Commissioner at any time before such confirmation is received.

Option to accept or refuse assessment.

**54.** It shall be in the option of the persons to whom an assessment is offered to accept or refuse the same.

Mode of acceptance.

If they are willing to accept it, they shall make and sign an acceptance in writing, in such form as the Chief Commissioner may from time to time prescribe in this behalf, and deliver the same to the Settlement-officer.

**55.** Any proprietor who, within such reasonable period as may be specified by the Chief Commissioner, fails to make, sign and deliver such acceptance, or to inform the Settlement-officer that he refuses the proposed assessment, shall, if the Settlement-officer by an order in writing so directs, be deemed to have accepted such assessment.

Proprietor not accepting in manner prescribed may be deemed to have accepted.

**56.** Whenever the assessment of a mahál has been accepted under this Act, the persons who have accepted it shall be bound to pay the amount thereof from such date and for such term as the Chief Commissioner may appoint in this behalf, or, if at the expiry of that term no new assessment has been made and is ready to take effect, until a new assessment has been made and is ready to take effect: Provided as follows:—

Effect of acceptance of assessment.

*1st*—any assessment may be rescinded by the Chief Commissioner at any time before it has been confirmed by the Governor General in Council;

Assessment may be rescinded by Chief Commissioner;

*2ndly*—the Governor General in Council may rescind any assessment submitted to him for confirmation;

or by Governor General in Council.

*3rdly*—if all the málguzárs of a mahál, six months before the expiry of the term fixed under this section, apply in writing to the Deputy Commissioner stating that they are unwilling that the assessment should continue in force beyond the expiry of such term, the assessment shall, on the expiry of such term, cease to be in force.

Málguzárs may object to continuance of assessment beyond term of settlement.

**57.** Where there is but one class of proprietors in a mahál, and all refuse to accept in manner required by section fifty-four the assessment offered, the Settlement-officer may, with the previous sanction of the Chief Commissioner, exclude them from settlement for a period not exceeding thirty years from the date of such exclusion, and may either let the mahál in farm, or take it under direct management.

Procedure when assessment is refused.

**58.** If some of the proprietors consent, and some refuse, so to accept the assessment offered, the Settlement-officer may, with the previous sanction of the Chief Commissoner, if the interest of the recusant proprietors in the lands taken into account in the assessment consists entirely of lands held by them separately from the other proprietors, exclude such recusant proprietors from settlement for a period not exceeding thirty years from the date of such exclusion, and either let their lands in farm or take such lands under direct management.

Procedure when only some proprietors accept assessment.

In other cases the assessment of the entire mahál shall be offered to the proprietors who consented to accept the assessment when originally offered, and if they refuse it the mahál shall be dealt with under the provisions of section fifty-seven.

When the recusant proprietors are excluded under this section, the lands

of the proprietors who consented to accept the assessment originally offered shall be deemed to be a separate mahál, and shall be assessed as such; and such assessment shall be offered to the proprietors so consenting; and if the lands of the recusant proprietors are let in farm, the farm shall be first offered to the proprietors who consented to accept the assessment originally offered.

Procedure on refusal of assessment in village in which superior and inferior rights co-exist.

**59.** When an assessment is offered in a mahál in which both superior and inferior proprietors co-exist—

(*a*) if all the proprietors of the class with which the Settlement-officer proposes to make the settlement refuse to accept as aforesaid the assessment offered, the assessment shall be offered to the proprietors of the other class; and if all such proprietors refuse the assessment, the Settlement-officer shall proceed as provided in section fifty-seven.

(*b*) if some only of the proprietors of the class with which the Settlement-officer proposes to make the settlement refuse the assessment, he may either proceed as if all had refused it or may deal with the mahál under section fifty-eight:

Provided that if, in the case contemplated by clause (*b*), the proprietors who consented to accept the assessment when originally offered refuse to accept it, such assessment shall be offered to the other class of proprietors.

Procedure on refusal of assessment by inferior proprietors.

**60.** If all or any of the inferior proprietors refuse any assessment offered under section fifty, the Settlement-officer may exclude them all from the sub-settlement, and assign the proprietary management and profits of the mahál to the superior proprietor for any term not exceeding the term of settlement.

Allowance to excluded proprietors.

**61.** Any proprietor excluded from settlement under section fifty-seven or section fifty-nine, clause (*a*), shall be entitled to receive from the Government an annual allowance, the amount of which shall be fixed by the Chief Commissioner, but which shall not be less than five per cent., or more than ten per cent., on the amount of the assessment offered to him by the Settlement-officer.

Excluded proprietors to have occupancy-rights in their sír-land.

**62.** Any proprietor excluded from settlement or sub-settlement under sections fifty-seven to sixty, both inclusive, shall be entitled to retain possession of his sír-land (if any) as if he were an absolute occupancy-tenant, and the rent to be paid by him for such land during the term of his exclusion shall be fixed by the Settlement-officer accordingly.

Aggregate amount of allowance granted to, and deduction from rent allowed to, excluded proprietor.

**63.** The aggregate amount of any allowance under section sixty-one, and of the difference between the rent fixed under section sixty-two and the rent which the excluded proprietor would be liable to pay if he were a tenant-at-will, shall not be less than five or more than fifteen per cent. on the amount of the assessment offered to him by the Settlement-officer.

Sub settle-

**64.** The Settlement-officer may make, on behalf of málik-makbúzás or

other like holders of land, such a sub-settlement as shall secure to them from the málguzárs of the mahál their existing rights; and may provide that, in addition to the land-revenue payable by them, they shall pay to the málguzárs such percentage thereon, not exceeding twenty per cent., as may in his opinion be sufficient to compensate the said málguzárs for their responsibility in respect of the land-revenue, and to provide for the fees of lambardárs and mukaddams.

ment with málik-makbúzás and other like holders of land.

**65.** The amount of revenue payable under a sub-settlement shall be a first charge upon all the land comprised in such sub-settlement.

Revenue payable under sub-settlement to be first charge on land.

**66.** When the whole of the land comprised in a mahál is held in severalty, the Settlement-officer shall apportion to the several holdings the amount with which such land is assessed under a settlement or sub-settlement.

Settlement-officer to apportion assessment over lands held in severalty;

When only part of the land comprised in a mahál is held in severalty, the Settlement-officer shall apportion such amount to the part held in common and the part held in severalty, and shall further apportion to the several holdings the amount to which they are liable under the former apportionment.

**67.** When by established custom the land held by each proprietor in any mahál is subject to periodical redistribution, the Settlement-officer may, in his discretion, on the application of the proprietors, make such redistribution according to such custom.

to redistribute land according to custom.

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## CHAPTER VI.—Of certain Investigations by the Settlement-officer and the Preparation of the Record-of-Rights.

**68.** The Settlement-officer shall ascertain the persons who are in possession as proprietors of the land comprised in each mahál.

Settlement-officer to ascertain proprietors;

**69.** The Settlement-officer shall ascertain the situation and determine the extent of all the land held as sír in each mahál.

to determine extent of sír-land;

**70.** The Settlement-officer shall ascertain the customs or rules by which the proprietors in each mahál are mutually bound as to the granting of pattás, the ejectment of tenants, the realization and distribution of rents and other profits, the payment of land-revenue, village-expenses and other charges, and generally as to the control and management of the mahál; and shall decide all disputes and record all agreements regarding the matters mentioned in this section.

to decide disputes among shareholders regarding management of mahál;

**71.** The Settlement-officer shall determine through which of the lambardárs or sub-lambardárs the amount of revenue payable by each proprietor, sub-proprietor or málik-makbúzá shall be paid.

to determine through what lambardárs revenue shall be paid;

**72.** The Settlement-officer shall ascertain, and record for each mahál, the

to ascertain

status and rents of tenants.

status of all tenants occupying land therein, the lands respectively held by them, the conditions on which they respectively hold such lands, and the rents (if any) payable by them respectively.

Enquiry into claims to hold free from revenue as against Government.

**73.** The Settlement-officer shall investigate all claims against the Government to hold land free from revenue or at less than a full assessment, or to receive the whole or part of the land-revenue assessed on land which is not free from revenue.

Power of Chief Commissioner to make rules.

The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules determining the principles by which the Settlement-officer shall be guided in the disposal of claims coming under this section.

Enquiry as to claims to hold free from revenue as against málguzárs.

**74.** When any land not being land which any person is entitled to hold free from revenue as against the Government is held by a proprietor, whether himself a málguzár or not, who claims to hold it wholly or partially free from revenue as against the other málguzárs of the mahál, the Settlement-officer shall decide whether the claimant is entitled to be exempted from paying the whole or any part of the revenue which would otherwise be payable in respect of such land, and, if he decides that the claimant is so entitled, shall also determine the conditions under which, and the term for which, the claimant is entitled to such exemption:

Provided that no decision under this section shall exempt any land from the payment of revenue, when the mahál in which such land is comprised is sold for arrears of revenue.

Power to make rules for disposal of such cases.

The Chief Commissioner may make rules for the guidance of Settlement-officers in dealing with cases under this section.

Time from which orders under sections 73 and 74 take effect.

**75.** When the Settlement-officer decides, under section seventy-three or section seventy-four, that land which has been held free from revenue, or at less than a full assessment, is liable to pay revenue, or to pay the same at enhanced rates, such decision shall take effect from the first day of the agricultural year next ensuing; unless the Chief Commissioner directs that the amount payable in respect of such land on account of the revenue accruing due within any one or more of the last preceding twelve years shall be realized.

Settlement-officer to decide what village-cesses are leviable;

**76.** The Settlement-officer shall determine and record the village-cesses, if any, which are leviable in accordance with village-custom, and the persons by and from whom, and the rates at which, they are leviable; and such cesses shall, if sanctioned by the Chief Commissioner, be leviable accordingly.

to determine certain disputes.

**77.** The Settlement-officer may determine disputes regarding any of the following matters (namely) :—

(*a*) the right of any lambardár, mukaddam, patwárí, village-watchman or

other village-servant to any customary dues, or other remuneration, and his liability to render any customary service in return for such dues or remuneration;

(*b*) the rights of persons resident in the village or holding lands comprised in the mahál, in or to the common land of the mahál and its produce, and the village-site;

(*c*) any customs relating to irrigation or to rights-of-way and other easements;

(*d*) any other rights and customs which the Chief Commissioner directs to be recorded in the administration-paper.

Procedure in cases under sections 68, 69, 70, 72 and 77, clauses (*b*), (*c*) and (*d*).

**78.** If a dispute arises regarding any matter mentioned or referred to in sections sixty-eight, sixty-nine, seventy, seventy-two and seventy-seven, clauses (*b*), (*c*) and (*d*), the Settlement-officer shall decide it summarily after making such enquiry as he thinks fit, and shall not be bound to hear any party to such dispute or to receive any evidence tendered by any such party; but in the case of every such dispute he shall record a proceeding stating the nature of such dispute, his decision thereon, the grounds of such decision and such other particulars as he thinks fit.

Record-of-rights.

**79.** The Settlement-officer shall prepare for every mahál, or, if he thinks fit, for any group of neighbouring mahále, a record-of-rights, and shall include in it—

(*a*) the results of the enquiries made under this chapter in respect of such mahál or group; and

(*b*) any other matters which the Chief Commissioner may, by rules in this behalf, direct to be entered in such paper.

Chief Commissioner may make rules regarding record-of-rights.

**80.** The Chief Commissioner may make rules prescribing the language in which the record-of-rights shall be drawn up, the form of the papers of which it shall consist, and the manner in which such papers shall be signed and attested by the Settlement-officer and the parties interested in the matters to which they refer.

Record-of-rights to be made over to Deputy Commissioner.

**81.** When the Settlement-officer has completed a record-of-rights in manner hereinbefore prescribed, he shall, subject to any order issued by the Chief Commissioner in this behalf, make it over to the Deputy Commissioner for custody.

Effect of entries in record-of-rights.

**82.** When the record-of-rights is duly made and attested, all entries therein shall be presumed to be correct until the contrary is shown.

Suits to contest certain settlement decisions or entries.

**83.** Any person deeming himself aggrieved by any decision under section seventy-eight, or by any decision of the Chief Settlement-officer in appeal therefrom, or by any entry made in the record-of-rights as to any matter referred to in that section, may institute a suit in the Civil Court to have such decision set aside or such entry cancelled or amended:

Provided as follows:—

When any suit under this section is instituted for the cancellation or amendment of an entry, the Government, if it so desires, and all persons interested in the entry, shall be made parties to the suit:

No persons by whom the record-of-rights was signed, and no persons claiming through or under them shall, without the previous sanction of the Chief Commissioner, institute any suit with a view to modify or set aside any entry relating to any matter mentioned in section seventy or section seventy-seven, clause (*b*), (*c*) or (*d*).

Revision of record-of-rights by Chief Commissioner.

**84.** After an assessment has been confirmed by the Governor General in Council, the Chief Commissioner shall not exercise, in respect of any entry of the descriptions referred to in section eighty-three duly made in a record-of-rights prepared in connection with such assessment and duly attested, the power of revision conferred by sections twenty-five and thirty-one, unless it is proved that such entry was made inadvertently.

Proceedings regarding lands the property of Government.

**85.** In respect of lands declared to be the property of Government, the Settlement-officer shall, instead of proceeding as hereinbefore provided, conduct such operations, and prepare such record, as the Chief Commissioner may direct.

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## CHAPTER VII.—Of Settlements made before this Act comes into Force.

Former settlements deemed to have been made under this Act.

**86.** Settlements made before this Act comes into force shall be deemed, so far as may be, to have been made hereunder; and the provisions of this Act in regard to proceedings taken and records prepared by Settlement-officers in the making of settlements hereunder shall apply in like manner to proceedings taken and records prepared before this Act comes into force.

Effect of awards of proprietary rights at such settlements.

**87.** When a Settlement-officer or Settlement Court has, at any settlement made before this Act comes into force, made an award of proprietary rights in any land, all claims which after consideration by such officer or Court may have been expressly decided by him or it to be invalid, or inferior to the claims of the persons in whose favour the award was made, shall be barred both as against Government and as against the persons last mentioned; and no suit shall lie for the enforcement of such claims in any Civil Court.

The award at any such settlement of proprietary rights in land to a widow shall be deemed to confer on her those rights only which, in accordance with the personal law to which she is subject, she would enjoy in land inherited by her from her husband.

When suits

**88.** Any person whose claim to proprietary rights in any land was not

expressly decided by such officer or Court may sue in a Civil Court to establish such claim; and if he can prove that, when proprietary rights in such land were awarded by such officer or Court to other persons, he was entitled to interests therein of the same nature as those upon consideration of which the award was made, the Civil Court may declare him entitled to a proprietary right of such nature and extent in the land as it may deem just.

for proprietary rights will lie in Civil Courts.

**89.** When at any settlement made before this Act comes into force málik-makbúzás have been declared entitled to a portion of the waste-lands comprised in any mahál, the Chief Commissioner may, notwithstanding anything contained in the record of such settlement, prescribe the extent of such portion and the mode in which the same shall be assigned to them; and may determine the nature and extent of their interests therein and the conditions on which they may hold it.

Chief Commissioner may allot waste-land to málik-makbúzás entitled thereto.

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# PART IV.

## OF REVENUE-ADMINISTRATION.

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### CHAPTER VIII.—Of the Collection of Land-revenue.

**90.** Notwithstanding anything contained in the record-of-rights of any village, the Chief Commissioner may fix the number and amount of the instalments, and the times, places and manner, at and in which land-revenue, whether payable direct to the Government or not, shall be paid.

Power of Chief Commissioner to regulate payment of land-revenue.

Until the Chief Commissioner otherwise directs, all such payments shall be made on the dates, in the instalments, in the manner and at the places on, in and at which they are payable when this Act comes into force.

**91.** When any sum payable under a settlement or sub-settlement is not paid within the time at which it is payable under section ninety, such sum shall be deemed to be an arrear, and all the persons with whom such settlement or sub-settlement was made, their representatives and assigns, shall thereupon become jointly and severally liable for it, and shall be deemed to be defaulters within the meaning of this Act.

"Arrear." "Defaulters."

*Realization of Revenue from Málguzárs.*

**92.** A statement of account, authenticated by the signature of the Tahsíldár, shall, for the purposes of this chapter, be conclusive evidence of the existence of any arrear payable direct to the Government, of its amount, and of the persons who in respect thereof are defaulters.

Tahsíldár's statement of account to be conclusive evidence of arrear.

**93.** The Deputy Commissioner or any officer empowered by him in this behalf may, if he thinks fit, before any of the processes hereinafter referred to

Notice of demand.

are issued for the recovery of such an arrear, cause a notice of demand to be served on any of the defaulters.

Processes for recovery of arrears.

**94.** An arrear payable directly to Government may be recovered by any one or more of the following processes:—

(*a*) by arresting the defaulter and imprisoning him in the civil jail;

(*b*) by attaching and selling his moveable property;

(*c*) by attaching the mahál in respect of which the arrear has accrued or the share or land of any málguzár who has not paid the portion of the revenue which, as between him and the other málguzárs, is payable by him, and taking the same mahál, share or land under direct management;

(*d*) by transferring the share or land of any málguzár who has not paid such portion to any málguzár who has paid the same, or, if every such málguzár declines to accept such share or land, to any person having a mortgage or charge upon the same, and who consents to accept it;

(*e*) by annulling the settlement of the mahál in respect of which the arrear has accrued, and taking such mahál under direct management or farming the same;

(*f*) by selling such mahál, or the share or land of any málguzár who has not paid the portion of the revenue aforesaid;

(*g*) by selling immoveable property belonging to the defaulter other than the land in respect of which the arrear has accrued:

Provided as follows:—

(1) the process mentioned in clause (*a*) shall not be issued against any female, minor, lunatic or idiot;

(2) the processes mentioned in clauses (*d*), (*e*), (*f*) and (*g*) shall not be enforced without the previous sanction of the Chief Commissioner;

(3) no land shall be sold, and the settlement of no land shall be annulled, on account of an arrear accruing in respect of land whilst it is under attachment, or under charge of the Superintendent of Government Wards, or held under direct management, or let in farm in accordance with any of the provisions of this Act.

The processes specified in clauses (*a*), (*b*) and (*g*) may be enforced either in the district in which the default has been made, or in any other district.

Arrest and imprisonment for recovery of arrear.

**95.** The process mentioned in section ninety-four, clause (*a*), may be executed by ssuing a warrant directing the officer named therein, if the defaulter fails to pay the arrear by a date to be fixed in the warrant, to bring him to the tahsíl.

If, when the defaulter arrives at the tahsíl, the arrear is still unpaid, the

Tahsíldár may order him to be taken before the Deputy Commissioner, or may keep him under personal restraint at the tahsíl for a period not exceeding ten days, unless within such period the arrear is paid, and may then, if the arrear is still unpaid, cause him to be taken before the Deputy Commissioner.

Imprisonment of defaulter in civil jail.

**96.** If the arrear is not paid when the defaulter arrives before the Deputy Commissioner, the Deputy Commissioner may issue an order to the officer in charge of the civil jail of the district, directing him to confine the defaulter in such jail for such period, not exceeding three months from the date of the order, as the Deputy Commissioner may think fit, unless within such period the arrear is paid.

Procedure in sales of moveable property.

**97.** Attachments and sales of moveable property made under this chapter shall be conducted as nearly as may be according to the law for the time being in force for the attachment and sale of moveable property under the decree of a Civil Court.

Management of mahál, share or land attached under section 94 (*c*).

**98.** After causing any attachment to be made under section ninety-four, clause (*c*), the Deputy Commissioner shall issue a proclamation declaring the attachment to be in force, and shall take the attached mahál, share or land under his own management, or place it under the management of any agent whom he may appoint for the purpose.

Effect of attachment.

**99.** During the continuance of an attachment under section ninety-eight, the defaulters shall be excluded from possession of the land attached, and the Deputy Commissioner or the agent appointed by him shall have all their rights to manage the land and to realize the rents and profits arising therefrom, and shall be bound by all their liabilities as málguzárs or proprietors to to any subordinate proprietors or tenants of such land.

Profits of land how applied.

**100.** The surplus profits of such land, after defraying the cost of attachment and management, shall be applied, first, to the payment of any revenue becoming due in respect of such land during the attachment; and next, to discharging the arrear for the recovery of which the attachment was made.

Attachment when to cease.

**101.** The attachment shall continue until the arrear is paid or realized from the profits of the land attached, or the Deputy Commissioner reinstates the defaulters in possession:

Provided that no attachment shall continue beyond five years from the first day of the agricultural year next following its commencement.

Transfer under section 94 (*d*).

**102.** When it is proposed to execute the process mentioned in section ninety-four, clause (*d*), the persons to whom the share or land in respect of which the arrear is due is to be transferred shall be required to pay such arrear, or to secure its payment to the satisfaction of the Deputy Commissioner.

No such transfer shall be made for a term exceeding fifteen years from

the first day of the agricultural year next after the date on which it is sanctioned by the Chief Commissioner.

Joint and several liability not affected by transfer.

No proceedings taken under this section shall affect the joint and several liability of the málguzárs of the mahál for arrears accruing in respect of such mahál subsequently to the transfer of the share or land, except that, as regards all such arrears, the transferee shall stand in the place of the málguzár whose share or land is transferred.

Procedure after receipt of sanction to annulment of settlement.

**103.** When the Chief Commissioner sanctions the annulment of the settlement of any mahál, the Deputy Commissioner shall proclaim such annulment, and may then exclude the defaulters from the possession of the mahál, and either manage the mahál or any portion thereof himself or through an agent, or let the mahál or any portion thereof in farm for such term and on such conditions as the Chief Commissioner directs:

Provided that no management or farm under this section shall continue for a longer period than fifteen years from the first day of the agricultural year next after the proclamation of annulment of settlement.

After the date of such proclamation no liabilities shall accrue under the settlement so annulled; but such annulment shall not affect anything done or any liability incurred under the settlement before such date.

Case of a portion of a mahál being managed or farmed.

**104.** When a portion only of the mahál is managed or let in farm under section one hundred and three, the rest of such mahál shall be separately resettled with the proprietors thereof for the remainder of the term of settlement.

Settlement on expiry of management or farm.

**105.** As soon as the management or farm of any mahál or portion thereof has come to an end, the Deputy Commissioner shall offer to the persons entitled under section forty-nine to an offer of assessment a new assessment of the land, on such conditions as the Chief Commissioner may direct, for the remainder of the term of the settlement of the mahál; and, if such offer is refused, may, with the previous sanction of the Chief Commissioner, let such mahál or portion in farm for the remainder of the term of settlement to some other person, or manage it himself or through an agent for such period.

Effect of annulment of settlement.

**106.** No leases, liens or other incumbrances created by the defaulters, or by any person through or under whom they claim, of, or upon any land managed or let in farm under this Act, shall, during such management or farm, be binding upon the Deputy Commissioner or Settlement-officer, his agent or lessee.

Saving of rights in sír-land.

**107.** No defaulter shall be deprived of the possession of his sír-land in the execution of any of the processes mentioned in section ninety-four, clauses (*c*), (*d*) and (*e*); but every such defaulter shall, while such process is being enforced, be entitled to retain possession of, and liable to pay rent for, such

land as if he were an absolute occupancy-tenant, at such rent as may be fixed by the Deputy Commissioner.

Nature of estate taken by purchaser of land sold for arrears due thereon.

**108.** Unless the Chief Commissioner in sanctioning the sale otherwise directs, a purchaser of any land sold for arrears of revenue due in respect thereof acquires the full proprietorship or superior or inferior proprietorship of it, as the case may be, free of all leases, liens and other incumbrances; and all grants or contracts previously made by any person other than the purchaser in respect of such land shall become void as against such purchaser.

Nothing in this section shall—

(*a*) affect the rights of any proprietor, superior or inferior to the defaulters, or of any málik-makbúzá or occupancy-tenant, who does not derive his rights as such proprietor, málik-makbúzá or tenant from express contract with such defaulters, or any person through whom they claim; or

(*b*) apply to lands held under leases at fair rents for the erection thereon of dwelling-houses, places of worship or manufactories, or for working mines, minerals, coals and quarries, or for laying out and maintaining gardens and burial-grounds, or for constructing tanks and canals, so long as the lands continue to be used for the purposes specified in such leases respectively; or

(*c*) deprive any defaulter whose property is sold of the rights in respect to his sír-land conferred by any law for the time being in force.

The Chief Commissioner may, from time to time, determine what rents shall be deemed to be fair rents within the meaning of this section.

Rules for sale of immoveable property.

**109.** When immoveable property is sold under this Act, the rules prescribed in sections 287, 288, 293 and 306 to 316, both inclusive, of the Code of Civil Procedure shall be followed, except in the following particulars (that is to say):—

(*a.*) The defaulter may pay the arrear in respect of which the land is to be sold at any time before the day fixed for the sale, and on such payment the sale shall be stayed.

(*b.*) The proclamation directed by the said section 287 shall, when the sale is under clause (*f*), section ninety-four, of this Act, declare that, subject to the provisions of section one hundred and eight, the full proprietorship, or superior or inferior proprietorship, as the case may be, is to be sold free from all leases, liens, and other incumbrances, and the certificate mentioned in section 316 of the said Code shall contain a similar statement.

(*c.*) The last two clauses of the said section 287 shall not apply.

(*d.*) An appeal from any order under section 312 of the said Code for

confirming or setting aside the sale shall lie to the Commissioner of the Division, and an appeal from the Commissioner's order on such appeal shall lie to the Chief Commissioner.

(*e.*) The Deputy Commissioner may, from time to time, postpone any sale which he has proclaimed, reporting such postponement to the Commissioner of the Division.

(*f.*) Section 309 of the said Code shall be read as if, after the words "for such payment," the words "and every sale of such property made after a postponement" were added.

(*g.*) Section 313 of the said Code shall not apply to sales under section ninety-four, clause (*f*), of this Act.

(*h.*) Section 316 of the said Code shall be read as if the words "The Deputy Commissioner shall place the purchaser in possession of the lands which he has purchased" were added thereto.

Pre-emption at sales.

**110.** In the course of a sale under section ninety-four, clause (*f*), if the property is knocked down to a stranger, the following persons may claim to take it at the sum last bid in the following order:—

(*a*) any málguzár who has paid the revenue which, as between him and the other málguzárs, is payable by him;

(*b*) if the superior proprietorship is sold, the inferior proprietor;

(*c*) if the inferior proprietorship is sold, the superior proprietor:

Provided that such claim is made before the officer conducting the sale closes the sitting at which the sale is held, and that the claimant undertakes to fulfil all the conditions of the sale binding on the purchaser.

Application of proceeds of sale of immoveable property.

**111.** The proceeds of every sale in execution of any process mentioned in section ninety-four shall be applied, first, in satisfaction of the arrear on account of which the sale was held and of the expenses of such sale; secondly, to the payment of any other arrear due to Government by the defaulter; and the surplus, if any, shall then be payable to him, or, where there are more defaulters than one, to such defaulters according to their respective shares in the property sold.

Costs recoverable as part of arrear.

**112.** The costs of serving a notice of demand under section ninety-three and of enforcing any process mentioned in section ninety-four shall be recoverable as part of the arrear in respect of which the notice was served and the process was issued.

Matters as to which Chief Commissioner may make rules.

**113.** The Chief Commissioner may make rules—

(*a*) for the guidance of Revenue-officers in issuing notices of demand under section ninety-three and executing the processes mentioned in section ninety-four;

(*b*) defining the classes of officers by whom the processes mentioned section ninety-four, clauses (*a*) and (*b*), may be enforced;

(*c*) prescribing the agency by which any of the processes issued under section ninety-four shall be executed.

**114.** Notwithstanding anything contained in section ninety-two, when proceedings are taken under this Act for the recovery of an arrear, the person against whom such proceedings are taken may, if he denies that the arrear or any part thereof is due, pay the same under protest made at the time of payment and duly signed by him or by his agent, and institute a suit in the Civil Court for the recovery of the amount which he denies to be due.

Remedies open to person denying that sum demanded as an arrear is due.

*Realization of Revenue by Málguzárs.*

**115.** In a suit for the recovery of an arrear of revenue not being revenue payable directly to Government, and in a suit brought by a lambardár to recover the amount of any revenue payable to Government through him, the defendant shall not, except with the permission of the Court,—

Limitation of right to set-off, &c., in suit for arrears.

(*a*) set-off against the plaintiff's demand any sum of money recoverable by him from the plaintiff; or

(*b*) claim credit for any payment purporting to have been made on account when such payment was made before the date on which the amount thereof became due.

**116.** Any lambardár or sub-lambardár entitled to recover an arrear, or any málguzár to whom such an arrear is due under a sub-settlement, may, before instituting a suit for the recovery thereof, apply to the Deputy Commissioner to recover such arrear on his behalf as if it were an arrear of revenue payable directly to Government.

Recovery of arrear through Deputy Commissioner instead of by suit.

The Deputy Commissioner may, if he thinks fit, comply with such application, but shall, before compliance therewith, give to the persons who would be defendants if a suit were instituted for the recovery of such arrear, opportunity to show cause against the order which he proposes to make.

The Deputy Commissioner shall not be made a defendant to any suit instituted under section one hundred and fourteen in respect of an arrear as to which an order has been made under this section.

No person on whose account the Deputy Commissioner proceeds under this section to recover an arrear shall thereby be relieved of his responsibility for such arrear.

**117.** Nothing in the Indian Limitation Act, 1877, and no agreement made after this Act comes into force, shall bar the right of the málguzárs of any mahál assessed with land-revenue to demand revenue in respect of any land which, having been taken into account in such assessment, has been held by any person without payment of revenue.

Saving of right of málguzár to demand revenue of land assessed to revenue and held free.

The Chief Commissioner may, in his discretion, exempt any case from the operation of this section.

Limitation in suits for revenue.

**118.** No suit for the recovery of revenue payable under a settlement or sub-settlement shall be instituted after three years reckoned from the date on which such revenue becomes payable.

In other respects the limitation of such suits shall be governed by the Indian Limitation Act, 1877.

*Interest on Arrears.*

Interest on arrears.

**119.** Interest shall not be charged on an arrear of revenue unless the Chief Commissioner, by general or special order, so directs; provided that the Court may award interest at such rate as it thinks fit on sums payable under a sub-settlement.

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## CHAPTER IX.—Of Revenue and Village Records.

Correction of record-of-rights.

**120.** Any entry in the record of-rights may, after such record has been made over to the Deputy Commissioner, be corrected by the Deputy Commissioner on the application of any person interested, or of his own motion. Such correction may be made on one or more of the following grounds and on no others:—

(*a*) that all persons interested in such entry wish to have it corrected; or

(*b*) that by a decree in a suit brought under section eighty-three it has been declared to be erroneous; or

(*c*) that, being founded on a decree or order of a Civil Court, or on the order of a Revenue or Settlement-officer, it is not in accordance with such decree or order; or

(*d* that, being founded on such decree or order, the order or decision has subsequently been modified on appeal or review, or has been revised by the Chief Commissioner.

Revision of record-of-rights.

**121.** The Deputy Commissioner may revise a record-of-rights when such revision is provided for in such record.

Powers of Deputy Commissioner as to correction of entry or revision of record.

**122.** When the Deputy Commissioner takes proceedings for the correction of any entry in the record-of-rights or for the revision of such record-of-rights, he shall exercise, for the purpose of such correction or revision, all the powers which the Chief Settlement-officer might have exercised if the proceedings had been taken whilst the settlement was in progress.

Power to direct that rule or custom entered in record-of-rights shall be enforced by Government.

**123.** The Chief Commissioner may, in his discretion, by notification in the official Gazette, direct that any specified rule, custom or condition duly entered in the record-of-rights of any specified village shall be enforced by the Government.

Punishment

If any of the persons with whom a settlement or sub-settlement has been

made, violate or neglect any rule, custom or condition with respect to which the Chief Commissioner has made a direction under this section, the Deputy Commissioner may, if no penalty is provided by any law for the time being in force for such violation or neglect, recover from such person a penalty not exceeding two hundred rupees.

of violation of such rule or custom.

**124.** Any person against whom proceedings have been taken under section one hundred and twenty-three may institute a suit against Government to set aside such proceedings on the ground that no rule, custom or condition was, in fact, violated or neglected. If the Court finds that no rule, custom or condition has been violated or neglected, it may by its order annul such proceedings, and direct that any penalty paid by the plaintiff be refunded; and may also award to him such costs as he has necessarily incurred in the proceedings, and such further sum as compensation as it thinks fit.

Suit to set aside proceedings under section 123.

**125.** The Chief Commissioner may—

(*a*) direct that the mukaddam of each village shall, for the purpose of showing the changes occurring therein subsequently to the prepartion of the record-of-rights, prepare, or, where there is a patwárí, cause to be prepared, and furnish, annually for such village, papers in such form, at such time, containing such particulars, and attested in such manner, as the Chief Commissioner may, from time to time, prescribe;

(*b*) lay down the procedure to be followed in order to ascertain that a change has occurred in the village, and the nature of such change.

All changes referred to in this section shall be recorded in such registers as the Chief Commissioner appoints, and not in the record-of-rights, and the Chief Commissioner may direct that, before any specified changes are recorded, the order of a specified Revenue-officer shall be obtained in this behalf.

Powers of Chief Commissioner as to registration of changes after preparation of record-of-rights.

**126.** All persons lawfully entering into possession of proprietary rights and interests in any land shall, within a reasonable time, give notice of such entry to the Tahsíldár of the tahsíl in which such land is situated.

Possession of proprietary rights to be notified.

If any question arises whether any right or interest is a proprietary right or interest within the meaning of this section, the decision thereof by the Chief Commissioner shall be final.

If the person so entering is a minor, lunatic or idiot, the guardian or other person who has charge of his property shall give the notice required by this section.

Notice to be given by guardian in case of minority or idiotcy.

**127.** Any person neglecting to give the notice required by section one hundred and twenty-six shall be liable, at the discretion of the Deputy Commissioner or Assistant Commissioner, to fine which may extend to fifty rupees for each day during which such neglect continues.

Fine for neglect to give notice of possession.

**128.** All persons being in possession of proprietary rights in land shall,

Obligation to

aid in preparation of village-papers.

on being so required by the Deputy Commissioner, prepare, or cause to be prepared, such papers, and furnish such information, as may be required for the preparation of the village-papers prescribed under section one hundred and twenty-five.

Fees for recording changes;

**129.** The Chief Commissioner may direct that fees shall be leviable when changes are recorded under the last clause of section one hundred and twenty-five, and may fix the amount of such fees.

from whom leviable.

All fees so leviable shall be levied from the person in whose favour the change is made.

Annual enquiry regarding land held free from revenue.

**130.** The Deputy Commissioner shall in each year make enquiry regarding all cases in which land has been granted by Government, conditionally or for a time, free, wholly or in part, from the payment of revenue.

Procedure on breach of conditions of grant.

If it appears to the Deputy Commissioner that the conditions of any grant have been broken by the grantee, he shall report the case through the Commissioner of the division for the orders of the Chief Commissioner, who may direct that the land be assessed, or may pass such other order as he thinks fit.

Procedure on expiry of term of grant.

If it appears to the Deputy Commissioner that the term of any such grant has expired, or (when the grant is for a life or lives) if the person last entitled to hold the land comprised in the grant, free from revenue, or at less than full revenue-rates, has died, he shall assess the same, and shall report his proceedings through the Commissioner of the division for the sanction of the Chief Commissioner.

Inspection of revenue-records.

**131.** All records kept under this Act shall be open to public inspection at such times, and on such conditions as to fees or otherwise, as the Chief Commissioner from time to time directs.

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## CHAPTER X.—Of certain Additional Powers and Functions of Revenue-officers.

Purposes for which, when settlement is not in progress, Deputy Commissioner shall exercise Settlement-officers' powers.

**132.** The Deputy Commissioner shall, when a settlement is not in progress, exercise the powers conferred by this Act on Settlement-officers for the following purposes:—

(*a*) causing boundary-marks to be erected or repaired, and recovering the cost of such erection and repair;

(*b*) assessing land-revenue on lands which are liable to assessment, but have not been assessed;

(*c*) declaring any local area to be a mahál;

(*d*) settling lands from which the proprietors were excluded at settlement and to which they have been or are about to be re-admitted;

(*e*) settling mahále in respect of which an application has been made under the third proviso to section fifty-six;

(*f*) dealing with claims to hold land wholly or partially free from revenue as against the málguzárs;

(*g*) assessing lands gained by alluvion;

(*h*) ascertaining and recording village-cesses which are levied when this Act comes into force, but have not been recorded at the settlement.

**133.** The Chief Commissioner may, during the currency of a settlement, invest any officer with the powers conferred on a Settlement-officer by sections forty, forty-one and forty-two; or, with the sanction of the Governor General in Council, with any other of the powers which are by this Act conferred on a Settlement-officer; but not so as to enable him to enhance the amount of an assessment in force under section fifty-six.

Purposes for which officers may be invested with Settlement-officers' powers.

**134.** Any person wilfully erasing, removing or damaging a boundary-mark may be ordered by the Deputy Commissioner or by a Tahsíldár or Náib Tahsíldár empowered by the Chief Commissioner in this behalf to pay to the officer making the order, in addition to any fine to which such person would be liable under section 434 of the Indian Penal Code, such sum, not exceeding fifty rupees, as may in the opinion of such officer be necessary to defray the expense of restoring the same, and of rewarding the person (if any) who gave information of such erasure, removal or damage.

Cognizance of, and penalty for, offence of injuring boundary-marks.

**135.** Whenever the person erasing, removing or damaging such mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been ordered to pay, the mark shall be re-erected or repaired at the cost of the proprietors, mortgagees or farmers of such one or more of the adjoining lands as the Deputy Commissioner thinks fit.

Procedure when person injuring cannot be found.

**136.** Any málguzárs of a mahál who are not co-sharers with the other málguzárs of such mahál in any lands comprised in such mahál, except such lands as are under the law relating to partition for the time being in force indivisible, may apply to the Deputy Commissioner to make the lands held by them separately from such other málguzárs a separate mahál; and the Deputy Commissioner shall thereupon make such lands and the lands held separately by the remaining málguzárs separate maháls, and shall, with the previous sanction of the Commissioner, apportion between the two new maháls thus constituted the entire revenue assessed upon the original mahál.

Partition of a mahál into two maháls.

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## CHAPTER XI.—Village-officers and Patwárís.

**137.** The Chief Commissioner may make rules regulating the appointment, remuneration, suspension and removal of lambardárs, sub-lambardárs and mukaddams:

Power to make rules as to officers.

Provided that, except with the previous sanction of the Governor General in Council, proprietors, other than málik-makbúzás, shall not be liable to pay, on account of the aggregate remuneration of lambardárs or sub-lambardárs and mukaddams, a sum exceeding five per cent. on the land-revenue which is assessed on their land, or which, when their land is free from revenue, would, in the judgment of the Deputy Commissioner, be assessed on their land if it were subject to assessment.

In framing rules for the appointment under this section of lambardárs and sub-lambardárs for any mahál, the Chief Commissioner shall have regard among other matters to local custom and hereditary claims, and to entries on the subject in the record-of-rights of such mahál.

In every village in which there are resident málguzárs, one of such málguzárs shall be the mukaddam.

Duties of lambardárs.

**138.** It shall be the duty of every lambardár and sub-lambardár—

(*a*) to collect and pay into the Government Treasury so much of the land-revenue as may under section seventy-one be payable through him, either solely or jointly with other lambardárs or sub-lambardárs;

(*b*) to collect and pay to the mukaddam, or into the Government Treasury as the Deputy Commissioner may direct, all sums of money payable through him, either solely or jointly with other lambardárs or sub-lambardárs, by the proprietors whom he represents, on account of the remuneration of the mukaddam, patwárís or village-watchmen, or on account of any expenses which the mukaddam is authorized to recover from the lambardárs or sub-lambardárs of his village;

(*c*) to assist the mukaddam in obtaining all particulars which he is bound to enter in the annual village-papers, or to report under this Act.

Lambardárs may recover fees and other charges from proprietors.

**139.** Together with the land-revenue, lambardárs and sub-lambardárs may recover from the proprietors whom they respectively represent—

(*a*) any remuneration to which they are entitled as such; and

(*b*) the sum which, under section one hundred and thirty-eight, they are bound to pay to mukaddams:

Provided that no such recovery shall be made from málik-makbúzás paying a percentage which includes remuneration to mukaddams and lambardárs.

Deputy Commissioner may alter channel through which málik-makbúzá pays revenue.

**140.** On the application of any málik-makbúzá or other like holder of land, or of the lambardár or sub-lambardár through whom such málik-makbúzá or other holder of land pays the revenue assessed on his holding, the Deputy Commissioner may, for sufficient cause shown, order that such revenue be paid through any other lambardár or sub-lambardár, or that it be paid into the Government Treasury.

Effect of

When the Deputy Commissioner orders such payment to be made into

the Government Treasury, such portion of the percentage fixed under section sixty-four as the Deputy Commissioner, subject to the control of the Chief Commissioner, may determine, shall be so paid, and the málik-makbúzá or other person shall pay the rest to the mukaddams on account of their fees and the other village-expenses.

order for payment of revenue direct to Government.

141. It shall be the duty of every mukaddam—

Duties of mukaddams.

(*a*) to control and superintend the village-patwárí and village-watchmen; to report their deaths or absence from duty; to maintain them in the possession of any lands appertaining to their office; to recover and pay to them any cash allowances to which they may be entitled; and to take such steps as may be necessary to compel them to perform their duties;

(*b*) to furnish reports regarding the state of his village, at such places and times as the Deputy Commissioner fixes in this behalf;

(*c*) to report and, if possible, to prevent encroachments on the public paths and roadways in his village;

(*d*) to preserve such stations and marks erected in his village by Government-surveyors as may be made over to his care;

(*e*) subject to any rules issued by the Chief Commissioner, to keep his village in good sanitary condition;

(*f*) to report violations of any rules which the Chief Commissioner may make for the preservation of underwood, forests and trees growing on the village-lands, and for securing to persons entitled to cut wood and enjoy other privileges in the waste-lands of the village the rights to which they are entitled;

(*g*) to collect, or aid in the collection of, all payments due to Government in his village;

(*h*) to report all births and deaths taking place in his village.

The Chief Commissioner may make rules—

(1) adding to the list of duties which a mukaddam is required to perform under this section; and

(2) regulating the liability of persons residing in any village for charges necessarily incurred by mukaddams in the performance of the duties specified in clause (*e*) in respect of such village, and for apportioning such charges among such persons; and

(3) determining the officers to whom reports under this section shall be made.

142. When, by any enactment for the time being in force, any public duties are imposed on, or public liabilities are declared to attach to, landholders, their managers and agents and the like, such duties shall be deemed to be

Liabilities imposed by law on landholders to

attach to mukaddams.

imposed on, and such liabilities shall be held to attach to, mukaddams appointed under this Act:

Provided that nothing herein contained shall discharge landholders, their managers or agents, or the like, from any liabilities imposed upon them by law.

Power of mukaddams to recover certain expenses incurred.

**143.** Every mukaddam may recover from the lambardárs or sub-lambardárs of the village to which he is appointed his own remuneration, together with any expenses necessarily incurred in the performance of his duties.

Chief Commissioner may make rules as to patwárís.

**144.** The Chief Commissioner may make rules—

(*a*) regulating the manner in which patwárís are to be selected; prescribing the conditions under which they may be appointed; and fixing the limits of their circles and the nature, mode and amount of their remuneration;

(*b*) prescribing the conditions under which substitutes may be appointed for persons having hereditary claims to the office of patwárí, when such persons are unable to act;

(*c*) prescribing the fines which may be imposed on patwárís and their substitutes for neglect of their duty, and stating the circumstances under which they may be suspended or removed:

Provided that, except with the previous sanction of the Governor General in Council, no proprietor shall be compelled to pay as remuneration to patwárís a sum exceeding six per cent. on the revenue for the time being assessed on his land, or which, when his land is free from revenue, would, in the judgment of the Deputy Commissioner, be assessable on his land if it were liable to assessment.

Chief Commissioner may make rules for guidance of Deputy Commissioners in certain matters.

**145.** The Chief Commissioner may make rules for the guidance of Deputy Commissioners in dealing with cases where, at the time of making the settlement next before this Act comes into force, the maintenance of a patwárí was made optional, and the persons settled with are unable to agree as to whether a patwárí should be maintained, and for dealing with cases where no patwárí is, under such option, maintained and the mukaddams or proprietors have made default in the performance of the duties of a patwárí.

Such rules may empower the Deputy Commissioner, in the latter class of cases—

(*a*) to impose fines not exceeding fifty rupees on such mukaddams or proprietors, and therefrom to make provision for the temporary performance of the duties in respect of which they have made default;

(*b*) to appoint patwárís in the villages of such proprietors, either for the term of the settlement or for any shorter term, and to fix the remuneration of such patwárís.

Nothing in the proviso to section one hundred and forty-four shall apply to patwáris so appointed.

**146.** The Chief Commissioner may make rules prescribing the duties of patwáris—

Chief Commissioner may define duties of patwáris.

(*a*) towards the Government; and may in such rules determine the registers, returns or other papers which they shall keep or furnish, the forms and language in which such registers and returns are to be prepared, the mode of their preparation and attestation, and the dates on which they are to be furnished;

(*b*) towards the members of the village-community; and may in such rules fix the remuneration, if any, other than the fixed emoluments of their office, which the patwáris may demand in respect of the performance of such duties.

All records and papers which patwáris are required to prepare or keep by any rule made by the Chief Commissioner under this section shall be deemed to be public documents within the meaning of the Indian Evidence Act, 1872, and to be the property of Government.

Patwáris' papers to be public documents.

**147.** Patwáris shall produce at all reasonable times, for the inspection of all persons interested therein, all records and papers which they are so required to prepare or keep, and shall allow such persons to make copies of such records and papers.

Patwáris to produce papers for inspection, and to allow copies to be made.

**148.** All existing lambardárs, sub-lambardárs, mukaddams and patwáris shall, unless the Chief Commissioner in any specified case otherwise directs, be deemed to have been appointed under this Act.

Existing officers confirmed.

**149.** Any sums which lambardárs, sub-lambardárs, mukaddams and patwáris are entitled to recover or demand under this chapter may, if the Deputy Commissioner so directs, be recovered in the same manner as an arrear of revenue payable directly to the Government.

Lambardárs' and other officers' dues recoverable as arrears.

**150.** In each village of the district of Sambalpúr all persons holding sír-land, other than mukaddams, are bound to provide for the due remuneration of the mukaddam of the village; and the Chief Commissioner may make rules for the enforcement of this obligation.

Holders of sir-land in Sambalpúr to provide for remuneration of mukaddams.

## PART V.

### CHAPTER XII.—MISCELLANEOUS.

**151.** Unless it is otherwise expressly provided in the records of a settlement or by the terms of a grant made by the Government, the right to all mines, minerals, coals and quarries, and to all fisheries in navigable rivers, and the right to extract sap from all palmyra and cocoanut trees, shall be deemed

Right to mines and quarries.

to belong to Government; and the Government shall have all powers necessary for the proper enjoyment of such rights:

Provided that, whenever in the exercise by the Government of the rights herein referred to over any land, the rights of any persons are infringed by the occupation or disturbance of the surface of such land, the Government shall pay to such persons compensation for such infringement, and the amount of such compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870.

**152.** Except as otherwise hereinbefore provided,—

**Exclusive jurisdiction of Revenue-authorities.**

(*a*) no Civil Court shall entertain any suit instituted, or application made, to obtain a decision or order on any matter which the Governor General in Council, the Chief Commissioner or a Revenue or Settlement-officer is, by this Act, empowered to determine or dispose of; and in particular

**Matters excepted from jurisdiction of Civil Courts.**

(*b*) no Civil Court shall exercise jurisdiction over any of the following matters:

(1) any matters provided for in sections forty, forty-one, forty-two and eighty-nine, as to waste-lands:

(2) the claim of any person to have an assessment offered to, or sub-settlement made with, him:

(3) the amount of revenue or rate to be assessed on any mahál, share or portion of a mahál under this or any other Act for the time being in force:

(4) questions as to the validity of any engagement with Government for the payment of land-revenue, or of any agreement entered into by superior or inferior proprietors in a settlement or sub-settlement:

(5) claims connected with or arising out of any process enforced on account of refusal to accept the assessment offered in a settlement or sub-settlement by the Settlement-officer or Deputy Commissioner:

(6) the amount of the allowance or rent fixed under section sixty-one or sixty-two:

(7) the re-distribution according to established custom, by a Settlement-officer, of land comprised in a mahál:

(8) the formation of the record-of-rights,
the preparation, signing or attestation of any of the documents contained therein, or
the notification of settlement:

(9) any matters provided for or referred to in section seventy-three, seventy-four or one hundred and thirty as to lands held or claimed to be held free from revenue, except rights arising under any contract between the Government of India and grantees of land:

(10) claims connected with, or arising out of, the collection of revenue, or any process enforced on account of an arrear of revenue, or on account of any sum which is under this or any other Act realizable as revenue:

(11) claims to set aside, on any ground other than fraud, sales for arrears of revenue:

(12) corrections of entries or revisions of records under sections one hundred and twenty, one hundred and twenty-one and one hundred and twenty-two:

(13) claims to have a partition and apportionment made under section one hundred and thirty-six, and questions as to the distribution or apportionment under that section of the land or of the revenue of a mahál:

(14) claims to the office of patwárí, lambardár, sub-lambardár or mukaddam, or in respect of any injury caused by exclusion therefrom, or to compel the performance of the duties thereof:

(15) claims to compel the performance of any duties imposed by this Act on any Revenue or Settlement-officer.

In all the above cases jurisdiction shall rest with the Revenue-authorities only.

**For what village-cesses suit lies.**

**153.** No suit shall lie in any Civil or Revenue Court for the recovery of any village-cess which has not been sanctioned by the Chief Commissioner and also either recorded at a settlement or under section one hundred and thirty-two, clause (*h*).

**Limitation of claims for compensation in case of waste-land demarcated as property of Government.**

**154.** Whenever, at any settlement made before this Act comes into force, waste-lands have been demarcated as the property of Government, no claim of any person to, or in respect of, such lands shall be entertained by any Civil Court after the expiration of three years from the date of such demarcation.

**Restriction on Revenue and Settlement officers trading and holding land.**

**155.** No Revenue or Settlement officer, and no person employed in any Revenue or Settlement office, shall, except with the express permission of the Chief Commissioner,—

(*a*) engage in trade, or be in any way concerned, directly or indirectly, in any commercial transaction, or in the purchase or hiring of land, in the district to which he is appointed, or in which he is employed;

(*b*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which may be sold by order of any Revenue-authority in such district.

The Chief Commissioner may delegate to Commissioners of divisions or to Deputy Commissioners the power of granting the permission mentioned in this section in the case of any specified class of officers.

Nothing in this section shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1866.

When mahál managed or farmed, or upon proclamation under section 98 or 103, rent payable to Deputy Commissioner.

Payment to proprietor in anticipation of due date.

**156.** When any mahál is managed or let in farm under section fifty-seven or fifty-eight, or when either of the proclamations mentioned in sections ninety-eight and one hundred and three has been made, all sums due to the proprietor in respect of the mahál, share or land mentioned in any of the said sections shall be payable only to the Deputy Commissioner or Settlement-officer, his agent or lessee; and no payment made to such proprietor in anticipation of the usual period for such payment shall, without the sanction of the Deputy Commissioner or Settlement-officer, be credited to the person making the same in account with the Deputy Commissioner or Settlement-officer, his agent or lessee.

Recovery of balances due by farmers.

**157.** When any land has been let in farm under the provisions of this Act, any revenue due from the farmer in respect of such land may be recovered from him or his surety as an arrear of revenue payable directly to Government.

Recovery of revenue due when Act comes into force; and of money payable under Act.

**158.** All land-revenue due when this Act comes into force, and all penalties or other moneys payable to, or recoverable by, an officer of Government under this Act, shall be recovered from the persons from whom they are due and from the sureties (if any) of such persons as if such land-revenue, penalties or moneys were an arrear of revenue payable directly to Government due under this Act by such persons and their sureties.

Past proceedings for collection of revenue legalized.

**159.** All proceedings taken before this Act comes into force for the collection of the land-revenue or the realization of arrears thereof shall be deemed to have been taken in accordance with law.

Mode of conferring powers.

**160.** In conferring powers under this Act the Chief Commissioner may empower persons by name or classes of officials generally by their official titles.

Power to vary or cancel orders.

**161.** The Chief Commissioner may vary or cancel any order conferring powers under this Act.

Chief Commissioner may make rules and attach penalty to breach thereof.

**162.** The Chief Commissioner may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for carrying out its provisions, and may attach to the breach of any such rule, or of any other rule made by him under this Act, a penalty which may extend to two hundred rupees, or, when such breach is a continuing breach, to fifty rupees for each day during which such breach continues.

All powers to make rules conferred by this Act on the Chief Commissioner shall be exercised subject to the control of the Governor General in Council, and may be exercised from time to time as occasion requires.

No rule made by the Chief Commissioner under this Act shall take effect until it has been published in the local official Gazette.

All such rules, when so published, shall have the force of law.

## SCHEDULE.

(*See section 2.*)

ENACTMENTS REPEALED.

| NUMBER AND YEAR. | Title. | Extent of repeal. |
|---|---|---|
| Act XII of 1841 ... | For amending the Bengal Code in regard to sales of land for arrears of revenue. | So much as has not been repealed. |
| Act I of 1847 ... | For the establishment and maintenanee of boundary-marks in the North-Western Provinces of Bengal. | The whole. |
| Act XXXI of 1858 ... | To make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal. | The whole. |

# APPENDIX.

## RECOVERY OF RENT ACT.

### ARRANGEMENT OF SECTIONS.

PREAMBLE.

SECTIONS.

1. [*Repealed.*]
2. Raiyat entitled to pattá.
3. Raiyats holding land at fixed rates to receive pattás.
4. If rent of land be not changed for twenty years.
5. Raiyats having right of occupancy, but not holding at fixed rates, to receive pattás.
6. Right of occupancy of raiyat cultivating or holding land for twelve years.
7. Saving of terms of written contracts.
8. Pattás to raiyats not having rights of occupancy.
9. Person granting pattá entitled to counterpart-engagement.
10. Exactions in excess of rent, or receipt withheld.
    Form of receipt.
11. Landholder not to compel attendance of tenant for adjustment of rent, &c.
    Payment of rent how enforced.
12. Damages for extorting payment of rent by duress.
13. Enhancement of rent of raiyat holding without, or after expiry, &c., of, written engagement.
14. Mode of contesting enhancement of rent.
15. Dependent taluqdár, &c., holding at fixed rent without change since permanent settlement, not liable to enhancement.
16. Rent of taluqdár, &c., not changed for twenty years to be *primâ facie* evidence of occupancy at that rent since permanent settlement.
17. Rent of raiyat having right of occupancy not to be enhanced unless—
    rate paid by him is below that prevailing in adjacent places:
    value of land, &c., has increased independently of raiyat:
    quantity of land held by raiyat is greater than he has paid for.
18. When raiyat may claim abatement of rent.
19. Relinquishment of land by raiyat after notice.
20. What to be deemed arrear of rent.
21. Liability of raiyat to be ejected for arrear due.
    Proviso.
22. Liability of farmer to have lease cancelled for arrear adjudged due.
    Proviso.
23. Cognizance of suits under Act.
24. Suits by zamíndárs against agents for money or accounts.
25. Ejectment of cultivators, farmers, &c., by zamíndárs.
    Proviso.
26. Measurement of lands.
27. Registry of transfers of taluqs, &c.
    Proviso.
28. Applications to dispossess grantees of land exempt from revenue.
29. Suits by or against sarbaráhkárs or tahsíldárs of estates held khás.
30. Commencement of—
    suits generally;
31. suits for grant of pattás, &c.;
32. suits for arrears of rent.
    Proviso.
33. Suits against agents for money, papers or accounts.
    Proviso.

SECTION.

34. Mode of instituting suits. Form of plaint or statement of claim.
35. Statement by whom presented.
36. Verification of statement.
Punishment for false verification.
37. [*Repealed.*]
38. Documentary evidence to be produced by plaintiff.
39. Production of document required by plaintiff from defendant.
40. Form of plaint in suits for arrears of rent.
41. Plaint in suit for ejectment of raiyat, &c., or for recovery of occupancy or possession of land, &c.
42. Statement may be returned or allowed to be amended.
43. Issue of summons; personal attendance of defendant may be required.
44. Day to be specified in summons how fixed. Defendant to produce necessary documents, and bring witnesses willing to attend without process.
45. Summons how served.
46. Endorsement by názir on summons.
47. Execution of process in other district.
48. Cost of serving summons or warrant to be deposited.
49. Warrant of arrest in what cases issued.
50. Procedure after arrest of defendant.
51. Procedure on defendant being brought before Collector.
Form of security-bond.
52. Procedure if warrant cannot be served.
53. Compensation for arrest applied for without reasonable cause.
54. Consequence of neither party appearing on day of trial.
55. When Collector to pass judgment by default; and when to decree upon admission.
Proviso.
56. If plaintiff only appear, Collector may proceed *ex parte*.
57. Defendant appearing at postponed hearing, may be heard in answer.
58. Revival, reversal and alteration of decrees *ex parte* or by default.
59. On appearance, parties to be examined by Collector, and may cross-examine each other.
60. Examination of parties, &c.
61. Witnesses to be examined.
62. Documentary evidence to be produced by defendant.
63. After examination, Collector may make decree if no further evidence required.
64. Consequence of inability of agent to answer.
65. If necessary, Collector to record issue and to fix day for hearing further evidence.
66. Parties to produce witnesses on day of trial; or Collector, on application, to summon witness.
67. Rules regarding attendance, examination, &c., of witnesses.
68. Consequence of parties not appearing on day fixed for trial of issue.
69. Suits by and against náibs, gumáshtas, &c.
70. Personal attendance when not required.
71. Employment of authorized agents or mukhtárs.
72. Collector may grant time or adjourn hearing.
73. Collector may cause local enquiry to be made.
74. Defendant may pay money into court in satisfaction of demand.
Liability of plaintiff if he proceed and recover no more than sum deposited.
75. No interest on deposits.
76. Collector when to fix term for which pattá is to be granted.
Proviso.
77. In suits for rent, third person claiming to be made party.
Proviso.
78. Suits for ejectment or cancelment of lease.
79. Judgment how pronounced.
80. If person required by decree refuse to grant pattá, Collector may do so.
81. Refusal to execute kabúliyat as required by decree.
82. Mode of executing decree for ejectment or re-instatement of raiyat.
Punishment for obstructing execution.
83. Execution of decree for cancelment of lease or ejectment or re-instatement of farmer or tenant.

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84. When judgment-debtor may be detained or imprisoned without issue of process of execution.
85. Liability of surety on failure to deliver judgment-debtor into custody.
86. Issue of process of execution.
87. Application for execution against moveable property.
88. Duration of warrant.
89. Second and successive warrants.
90. After one year execution not to issue without notice.
91. Notice of execution against representative.
92. Execution after three years from date of judgment.
93. Warrant against person.
Limit of imprisonment.
If arrest be for non-delivery of accounts.
94. No second imprisonment under same judgment.
95. Deposit of diet-money.
96. Payment of diet-money in advance during imprisonment.
97. Diet-money to be costs in suit.
98. List of property taken in execution and proclamation of sale.
99. Custody and sale of moveable property taken in execution.
100. Collector may stay sale of moveable property seized if third party claim interest therein.
101. Collector to adjudicate such claims.
102. Claimant failing to establish right liable to compensate judgment-creditor.
103. No appeal from order under sections 101, 102.
Proviso.
104. Sale not vitiated by irregularity in publishing or conducting.
Proviso.
105. Sale of transferable tenures in execution of decrees for arrears of rent.
106. If third party claim to be lawful possessor of tenure, Collector to stay sale and to enquire and adjudicate.
Proviso.
107. Mode of adjudicating claims.
108. Execution of decrees given in favour of sharers in undivided estates or tenures.
109. Execution against immoveable property when money-decree cannot be otherwise satisfied.
110. Execution against house or building:
against saleable under-tenure.
If it be an estate or a share of an estate.
111. Consequence of objection offered before sale of immoveable property.
112. Produce of land held hypothecated for rent.
Arrears of rent recoverable by distraint under following rules.
Cultivators who have given security exempt from distraint.
Proviso.
Proviso.
113. Distraint when barred.
114. Power of distraint of managers under Court of Wards, &c.
Proviso.
115. Standing crops and crops gathered but not stored liable to distraint.
116. Defaulter to be served with written demand, &c., before or at time of distraint.
117. Distress proportionate to arrear.
List of property served on owner.
118. Standing crops, &c., when attached, to be reaped and stored by cultivator, or, if he neglect to do so, by distrainer.
119. Distrainer may apply for aid to Collector in case of resistance.
120. Servants employed to distrain to be furnished with written authority.
121. Distress withdrawn if defaulter tender payment of arrear and expenses prior to sale.
122. Application for sale.
123. Form of application.
Deposit of cost of notice to defaulter.
124. Procedure of amín on receipt of application.
125. Amín to suspend sale on receipt of Collector's certificate of institution of suit.

SECTIONS.

126. Suit to contest distrainer's demand before notice of sale.
127. Distress withdrawn on receipt of Collector's certificate of execution of bond to pay amount due.
128. On expiration of period fixed in proclamation of sale, if institution of suit to contest demand not certified, sale may proceed.
129. Place and manner of sale of distrained property.
130. If fair price not offered, sale may be postponed, and shall be then completed whatever price offered.
131. Payment of purchase-money.
132. Disposal of proceeds of sale.
133. Officers holding sales prohibited from purchasing.
134. Irregularities to be reported to Collector.
Officer not to sell, if he find that defaulter has not received notice.
135. Recovery of expenses, if amín proceeds to place of sale and no sale takes place.
136. Proceedings of amíns, &c., subject to revision and orders of Collectors.
137. Second proclamation of sale.
138. Procedure after institution of suit to contest demand.
139. Owner of property distrained for arrears alleged to be due from another, may institute suit against distrainer, &c.
Proviso.
140. Procedure if right to distrain be disputed.
141. Persons prevented from suing in time to save property from sale, may sue for damages.
142. Also persons aggrieved by illegal act of distrainer.
143. Unlawful distraint.
144. Time for commencing suits for damages.
145. Resistance of distraint.
146. Service of process.
147. Resistance of process.
148. Place of holding Court.
Proviso.
149. Agents or mukhtárs.
150. Powers of Deputy Collectors.
151. Control of Collectors and Deputy Collectors.
No appeal from orders of Collectors and Deputy Collectors in certain cases.
152. Time for presenting appeals from orders.
153. When appeal allowed from judgment of Collector for money below 100 rupees.
154. Re-hearing in suits not open to appeal.
155. Appeal from decision of Deputy Collector.
156. Petition of appeal.
157. Procedure in appeal.
158. Re-admission of appeal.
159. Judgment in appeal.
160. In what suits appeal to lie to Zila Judge ;
to Sadr Court.
161. Presentation and hearing of appeals.
162. Suits preferred in Revenue-office of district or sub-division in which greater part of lands situate.
163. No jurisdiction in Collector as to lands beyond district.
164. Deputy Collector when not to exercise judicial powers.
165. Powers to be exercised by Assistants to Collectors.
166. Saving of rights of proprietors as to tenures under Regulation VIII. 1819.
167. [*Repealed.*]
168. Interpretation.

SCHEDULE OF FORMS.

ACT No. X OF 1859.

*Received the Governor General's assent on the 29th of April, 1859.*

An An to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.

WHEREAS it is expedient to re-enact with certain modifications the provisions of the existing law relative to the rights of raiyats with respect to the delivery of pattás and the occupancy of land, to the prevention of illegal exaction and extortion in connection with demands of rent, and to other questions connected with the same; to extend the jurisdiction of Collectors, and to prescribe rules for the trial of such questions, as well as of suits for the recovery of arrears of rent, and of suits arising out of the distraint of property for such arrears; and to amend the law relating to distraint; It is enacted as follows:— Preamble.

1.—[*Repealed by Act No. XIV of 1870.*]

2. Every raiyat is entitled to receive from the person to whom the rent of the land held or cultivated by him is payable, a pattá containing the following particulars:— Raiyat entitled to pattá.

the quantity of land; and, where fields have been numbered in a Government survey, the number of each field;

the amount of annual rent;

the instalments in which the same is to be paid;

and any special conditions of the lease.

If the rent is payable in kind, the proportion of produce to be delivered and the time and manner of delivery.

3. Raiyats who, in the Provinces of Bengal, Bihár, Orissa *and Benares*, hold lands at fixed rates of rent which have not been changed from the time of the permanent settlement, are entitled to receive pattás at those rates. Raiyats holding land at fixed rates to receive pattás.

4. Whenever, in any suit under this Act, it shall be proved that the rent at which land is held by a raiyat in the said Provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period. If rent of land be not changed for twenty years.

5. Raiyats having rights of occupancy, but not holding at fixed rates as described in the two preceding sections, are entitled to receive pattás at fair and equitable rates. Raiyats having right of occupancy, but not holding at fixed rates, to receive pattás.

In case of dispute, the rate previously paid by the raiyat shall be deemed to be fair and equitable, unless the contrary be shown in a suit by either party under the provisions of this Act.

6. Every raiyat who has cultivated or held land for a period of twelve years has a right of occupancy in the land so cultivated or held by him, whether it be held under pattá or not, so long as he pays the rent payable on account of the same; but this rule does not apply to khámár, nijjot or sír-land belonging to the proprietor of the estate or tenure and let by him on lease for a term or year by year, nor (as respects the actual cultivator) to lands sub-let for a term or year by year, by a raiyat having a right of occupancy. Right of occupancy of raiyat cultivating or holding land for twelve years.

The holding of the father or other person from whom a raiyat inherits shall be deemed to be the holding of the raiyat within the meaning of this section.

7. Nothing contained in the last preceding section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a raiyat when it contains any express stipulation contrary thereto. Saving of terms of written contracts.

Pattás to raiyats not having rights of occupancy.

8. Raiyats not having rights of occupancy are entitled to pattás only at such rates as may be agreed on between them and the persons to whom the rent is payable.

Person granting pattá entitled to counterpart-engagement.

9. Every person who grants a pattá is entitled to receive from the person to whom the pattá is granted a kabúliyat or counterpart-engagement in conformity with the terms of the pattá.

The tender to any raiyat of a pattá such as the raiyat is entitled to receive shall be held to entitle the person to whom the rent is payable to receive a kabúliyat from such raiyat.

Exactions in excess of rent, or receipt withheld.

10. Every under-tenant or raiyat from whom any sum is exacted in excess of the rent specified in his pattá, or payable under the provisions of this Act, whether as abwáb or under any other pretext, and every under-tenant, raiyat or cultivator from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to recover from the person receiving such rent damages not exceeding double the amount so exacted or paid.

Form of receipt.

Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

Landholder not to compel attendance of tenant for adjustment of rent, &c. Payment of rent how enforced.

11. The power heretofore vested in zamíndárs and other landholders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payment of the rents due to them other than are authorized by the provisions of this Act.

Damages for extorting payment of rent by duress.

12. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or raiyat by illegal confinement or other duress, such under-tenant or raiyat shall be entitled to recover such damages, not exceeding in any case the sum of two hundred rupees, as may be deemed a reasonable compensation for the injury done him by such extortion.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

Enhancement of rent of raiyat holding without, or after expiry, &c., of, written engagement.

13. No under-tenant or raiyat who holds or cultivates land without a written engagement, or under a written engagement, not specifying the period of such engagement, or whose engagement has expired, or has become cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which the land held or cultivated by him is situate, and has not been renewed, shall be liable to pay any higher rent for such land than the rent payable for the previous year, unless a written notice shall have been served on such under-tenant or raiyat, in or before the month of Chait, specifying the rent to which he will be subject for the ensuing year, and the ground on which an enhancement of rent is claimed.

Such notice shall be served by order of the Collector on the application of the person to whom the rent is payable, and shall, if practicable, be served personally on the under-tenant or raiyat.

If for any reason the notice cannot be served personally upon the under-tenant or raiyat, it shall be affixed at his usual place of residence, or if he have no such place of residence in the district in which the land is situate, the mode of service of such notice shall be by affixing it at the mál-kachahrí of such land or other conspicuous place thereon, or at the village chaurí or chaupál, or at some other conspicuous place in the village in which the land is situate.

**14.** Any under-tenant or raiyat on whom such notice as aforesaid has been served may contest his liability to pay the enhanced rent demanded of him, either by complaint of excessive demand of rent as hereinafter provided, or in answer to any suit preferred against him for recovery of arrears of the enhanced rent.

Mode of contesting enhancement of rent.

**15.** No dependent taluqdár or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the raiyats, who, in the Provinces of Bengal, Bihár, Orissa *and Benares*, holds his taluq or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in section 51, Regulation VIII, 1793,[a] or in any other law, to the contrary notwithstanding.

Dependent taluqdár, &c., holding at fixed rent without change since permanent settlement, not liable to enhancement.

**16.** Whenever, in any suit under this Act, it shall be proved that the rent at which a taluq or other tenure is held in the said Provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that such taluq or tenure has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or it be proved that such rent was fixed at some later period.

Rent of taluqdár, &c., not changed for twenty years to be *primâ facie* evidence of occupancy at that rent since permanent settlement.

**17.** No raiyat having a right of occupancy shall be liable to an enhancement of the rent previously paid by him except on some one of the following grounds, namely:—

Rent of raiyat having right of occupancy not to be enhanced unless—

that the rate of rent paid by such raiyat is below the prevailing rate payable by the same class of raiyats for land of a similar description and with similar advantages in the places adjacent:

rate paid by him is below that prevailing in adjacent places:

that the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the raiyat:

value of land, &c., has increased independently of raiyat:

that the quantity of land held by the raiyat has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

quantity of land held by raiyat is greater than he has paid for.

**18.** Every raiyat having a right of occupancy shall be entitled to claim an abatement of the rent previously paid by him, if the area of the land has been diminished by diluvion or otherwise, or if the value of the produce or the productive powers of the land have been decreased by any cause beyond the power of the raiyat, or if the quantity of land held by the raiyat has been proved by measurement to be less than the quantity for which rent has been previously paid by him.

When raiyat may claim abatement of rent.

**19.** Any raiyat who desires to relinquish the land held or cultivated by him shall be at liberty to do so provided he gives notice of his intention in writing to the person entitled to the rent of the land or his authorized agent in or before the month of Chait of the year preceding that in which the relinquishment is to have effect.

If he fail to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land.

Relinquishment of land by raiyat after notice.

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a See Lower Provinces Code, vol. I.

If the person entitled to the rent of the land or his agent refuse to receive any such notice and to sign a receipt for the same, the raiyat may make an application to the Collector, who shall thereupon cause the notice to be served on such person or his agent in the manner provided in section 13.

What to be deemed arrear of rent.

**20.** Any instalment of rent which is not paid on or before the day when the same is payable according to the pattá or engagement, or, if there be no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and, unless otherwise provided by written agreement, shall be liable to interest at twelve per centum per annum.

Liability of raiyat to be ejected for arrear due.

**21.** When an arrear of rent remains due from any raiyat at the end of the Bengal year, or at the end of the month of Jeth of the Faslí or Wiláiyatí year, as the case may be, such raiyat shall be liable to be ejected from the land in respect of which the arrear is due:

Proviso.

Provided that no raiyat, having a right of occupancy or holding under a pattá the term of which has not expired, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

Liability of farmer to have lease cancelled for arrear adjudged due.

**22.** When an arrear of rent shall be adjudged to be due from any farmer or other leaseholder not having a permanent or transferable interest in the land, the lease of such leaseholder shall be liable to be cancelled, and the leaseholder to be ejected:

Proviso.

Provided that no such lease shall be cancelled nor the leaseholder ejected otherwise than in execution of a decree or order under the provisions of this Act.

Cognizance of suits under Act.

**23.** 1. All suits for the delivery of pattás or kabúliyats, or for the determination of the rates of rent at which such pattás or kabúliyats are to be delivered;

2. all suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress;

3. all complaints of excessive demand of rent, and all claims to abatement of rent;

4. all suits for arrears of rent due on account of land either khirájí or lákhiráj, or on account of any rights of pasturage, forest-rights, fisheries or the like;

5. all suits to eject any raiyat or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a raiyat may be liable to ejectment or a lease may be liable to be cancelled;

6. all suits to recover the occupancy or possession of any land, farm or tenure, from which a raiyat, farmer or tenant has been illegally ejected by the person entitled to receive rent for the same;

7. all suits arising out of the exercise of the power of distraint conferred on zamíndárs and others by sections 112 and 114 of this Act, or out of any acts done under colour of the exercise of the said power as hereinafter particularly provided,

shall be cognizable by the Collectors of land-revenue and shall be instituted and tried under the provisions of this Act, and, except in the way of appeal as provided in this Act, shall not be cognizable in any other Court or by any other officer, or in any other manner.[a]

Suits by zamíndárs against agents

**24.** Suits by zamíndárs and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such

[a] See Act No. XIV of 1863, sec. 1, *infra*.

agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession, shall be cognizable by the Collectors, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court except in the way of appeal as provided in this Act.[a]

for money or accounts.

**25.** If any zamíndár or other person in receipt of the rent of land requires assistance to eject any cultivator not having a right of occupancy, or to eject any farmer or other tenant holding only for a limited period after the determination of his lease or tenancy, or any agent after the determination of his agency, or to enforce any attachment or ejectment expressly authorized by any Regulation or Act, he shall make application to the Collector, and the Collector shall proceed thereupon to enquire into the case and pass orders in the manner provided for suits under this Act:

Ejectment of cultivators, farmers, &c., by zamíndárs.

Provided that no such application for the ejectment of a farmer on the determination of a lease shall be received, if the lease be of the kind denominated thíká zar-i-peshgi or the like, in which an advance has been made by the leaseholder, and the proprietor's right of re-entry at the end of the term is contingent on the re-payment of such advance either in money or by the usufruct of the land. In all such cases the parties must proceed by suit in the civil Court.

Proviso.

**26.** When rent is payable by an under-tenant or raiyat at a certain rate or rates according to the quantity of land held or cultivated by him, or when any written engagement conditioned for the payment of a certain amount of rent on account of land held or cultivated by an under-tenant or raiyat has expired or become cancelled by the sale for arrears of revenue or rent of the estate or tenure in which the land is situate, the person to whom the rent is payable has a right to measure such land for the purpose of ascertaining the quantity of land actually held or cultivated by such under-tenant or raiyat, and every proprietor of an estate or tenure has a right of making a general survey or measurement of the lands comprised in such estate or tenure unless restrained from doing so by express engagement with the occupants of the lands.

Measurement of lands.

If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land, or if any under-tenant or raiyat, having received notice of the intended measurement of land held or cultivated by him which is liable to such measurement, refuses to attend and point out such land, such person may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and shall pass an order either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or raiyat.

If any under-tenant or raiyat after the issue of an order enjoining his attendance neglects to attend, it shall not be competent to him to contest the correctness of the measurement made in his absence.

**27.** All dependent taluqdárs and other persons possessing a permanent transferable interest in land intermediate between the zamíndár and the cultivator are required to register, in the sharistá of the zamíndár or superior tenant to whom the rents of their taluqs or tenures are payable, all transfers of such taluqs or tenures or portions of them, by sale, gift or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritance.

Registry of transfers of taluqs, &c.

And every zamíndár or superior tenant is required to admit to registry and otherwise

[a] See Act No. XIV of 1863, sec. 1, *infra*.

give effect to all such transfers, when made in good faith, and all such successions and divisions.

If any zamíndár or superior tenant refuse to admit to registry or otherwise give effect to any such transfer or succession, the transferee or successor may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and if no sufficient grounds are shown for the refusal, shall pass an order enjoining the zamíndár or superior tenant to admit to registry and otherwise give effect to such transfer or succession:

Proviso.

Provided that no zamíndár or superior tenent shall be required to admit to registry or give effect to any division or distribution of the rent payable on account of any such tenure, nor shall any such division or distribution of rent be valid and binding without the consent in writing of the zamíndár or superior tenant.

Applications to dispossess grantees of land exempt from revenue.

28. So much of section 10, Regulation XIX, 1793,[a] section 10, Regulation XLI, 1795,[b] section 6, Regulation XXXI, 1803,[c] section 21, Regulation VIII, 1805,[d] and section 24, Regulation XII, 1805,[e] as authorizes and requires proprietors and farmers of estates and dependent taluqs, in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the dates specified in the said sections, of their own authority to collect the rents of such land, and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or taluq in which it may be situate, is repealed; and any proprietor or farmer who may desire to assess any such land or to dispossess any such grantee shall make application to the Collector, and such application shall be dealt with as a suit under the provisions of this Act.

Every such suit shall be instituted within the period of twelve years from the time when the title of the person claiming the right to assess the land or dispossess the grantee, or of some person claiming under him, first accrued.

If such period has already elapsed or will elapse within two years from the date of the passing of this Act, such suit may be brought at any time within two years from such date.

Suits by or against sarbaráhkárs or tahsíldárs of estates held khás.

29. All suits which under the provisions of this Act may be brought by or against zamíndárs or other persons in the receipt of the rent of land, may be brought by or against sarbaráhkárs or tahsíldárs of estates held under khás management, whether such estates are the property of Government or of individuals.

If the Collector or the sarbaráhkár or tahsíldár of any such estate in the Provinces of Bengal, Bihár and Orissa proceed against any defaulting raiyat or under-tenant of such estate under the powers vested in him by section 25, Regulation VII, 1799,[f] and not according to the provisions of this Act, such raiyat or under-tenant may contest the demand on account of which he is so proceeded against by suit in the civil Court.

Commencement of—suits generally;

30. Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

suits for grant of pattás, &c.;

31. Suits for the delivery of pattás or kabúliyats and for the determination of the rates of rent at which such pattás or kabúliyats are to be delivered, may be instituted at any time during the tenancy.

suits for arrears of rent.

32. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal year, or from the last day of the month of Jeth of the Faslí or Wiláiyatí year in which the arrear claimed shall have become due.

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[a], [e] See Lower Provinces Code, vol. I. [b], [c], [d] Repealed by Act No. XIX of 1873.
[f] Repealed by Act No. XVI of 1874.

For arrears of rent due at the passing of this Act, suit shall be brought within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the civil Court, whichever may first expire:

Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent having been enhanced after issue of notice under section 13, and the enhancement not having been confirmed by any competent Court, the suit shall be instituted within three months from the end of the Bengal year or of the month of Jeth of the Faslí or Wiláiyatí year, on account of which such enhanced rent is claimed. Proviso.

**33.** Suits for the recovery of money in the hands of an agent or for the delivery of accounts or papers by an agent may be brought at any time during the agency or within one year after the determination of the agency of such agent, or, in the case of claims now existing, within one year after the passing of this Act or within the period now allowed for the institution of such suits in the civil Court, whichever may first expire: Suits against agents for money, papers or accounts.

Provided that, if the person having the right to sue shall by means of fraud have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case (except the case of claims now existing as aforesaid) be brought at any time exceeding three years from the termination of the agency. Proviso.

**34.** Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim which shall contain the name, description and place of abode of the plaintiff, the name, description and place of abode of the defendant, so far as they can be ascertained, the substance of the claim and the date of the cause of action. Mode of instituting suits. Form of plaint or statement of claim.

**35.** The statement of claim shall be presented by the plaintiff or by an authorized agent of the plaintiff who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge. Statement by whom presented.

**36.** The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following or to the like effect: Verification of statement.

"I, *A. B.*, do declare that the above statement is true to the best of my knowledge and belief."

If the statement shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence. Punishment for false verification.

**37.**—[*Repealed by Act No. XXXVI of 1860.*]

**38.** If the plaintiff rely in support of his claim on any document in his possession, he shall deliver the same to the Collector at the time of presenting his statement of claim. Documentary evidence to be produced by plaintiff.

Unless such document be delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

**39.** If the plaintiff require the production of any document in the possession or power of the defendant, he may at the time of presenting his statement of claim deliver to the Collector a description of the document in order that the defendant may be required to produce the same. Production of document required by plaintiff from defendant.

**40.** If the suit be for the recovery of an arrear of rent, the statement shall specify the name of the village and estate and of the pargana or other local division in which the land is situate; and if the arrear is alleged to be due from any raiyat, the quantity of land, and Form of plaint in suits for arrears of rent.

where fields have been numbered in a Government survey, the number of each field, the yearly rent of the land, the amount (if any) received on account of the year for which the claim is made, the amount in arrear and the time in respect of which it is alleged to be due.

Plaint in suit for ejectment of raiyat, &c., or for recovery of occupancy or possession of land, &c. Statement may be returned or allowed to be amended.

**41.** If the suit be for the ejectment of a raiyat, farmer or tenant from any land, farm or tenure, or for the recovery of the occupancy or possession of any land, farm or tenure, the statement shall describe (as circumstances may require) the extent, situation and designation of the same; and, if necessary for the identification of the land, shall set forth the boundaries of such land.

**42.** If the statement of claim do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Collector may return the statement to the plaintiff, or at his discretion allow it to be amended.

Issue of summons; personal attendance of defendant may be required.

**43.** If the statement of claim be in proper form, the Collector, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant, and if the plaintiff require the personal attendance of the defendant, and satisfy the Collector that such personal attendance is necsssary, or the Collector of his own accord require such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons, otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

Day to be specified in summons how fixed. Defendant to produce necessary documents, and bring witnesses willing to attend without process.

**44.** The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be or be supposed to be at the time from the place where the Court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence.

It shall also enjoin him to bring with him his witnesses if they are willing to attend without issue of process; and shall be in the form (A) contained in the schedule to this Act or to the like effect.

Summons how served.

**45.** The summons shall be served by delivering a copy of the summons to the defendant personally when practicable; or, if the summons cannot be served on the defendant personally, by affixing a copy of it to some conspicuous part of his usual place of abode, and also affixing a copy of the same in the Collector's office.

Endorsement by názir on summons.

**46.** If the summons be served personally, the názir shall endorse on the summons the fact of such service. If personal service be not effected, the názir shall endorse on the summons the reason of not serving it personally and how it has been served.

Execution of process in other district.

**47.** If the usual place of abode of the defendant be in another district, the summons, together with the cost of the service thereof, shall be sent by the public post to the Collector of such district, who shall issue the summons, and return the same after service, with the prescribed endorsement, to the officer by whom it was transmitted to him.

Cost of serving summons or warrant to be deposited.

**48.** The amount of the cost of serving the summons, or, if a warrant be issued as provided in the next succeeding section, of serving the warrant, shall in all cases be deposited in court upon the same day or the day next following that on which the plaint or statement of claim is presented to the Collector.

If the said amount be not so deposited (except in cases in which the Collector may allow the issue of summons free of cost under the discretion reserved to him in section 146), the case shall not be brought on the file of suits; but in such case the plaintiff may present another plaint at any time within the period allowed by the rules for the limitation of actions.

**49.** If in any suit against an under-tenant or raiyat for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant. Warrant of arrest in what cases issued.

When such application is presented, the Collector shall examine the plaintiff or his agent on his oath or affirmation or otherwise according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *primâ facie* grounds for believing the claim to be well-founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Collector may issue a warrant for the arrest of the defendant.

The Collector shall fix a reasonable time for the return of the warrant, which shall be in the form (B) contained in the schedule to this Act or to the like effect, and the officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant (which shall be in the form (C) in the schedule or to the like effect) containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence.

But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependent taluq or other transferable tenure, which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

**50.** If a defendant be arrested under the warrant of arrest, he shall be brought with all convenient speed before the Collector, and the Collector shall commit him to custody unless he deposit in Court such sum as may be specified in the notice. Procedure after arrest of defendant.

**51.** When a defendant is brought before the Collector under warrant, the Collector shall with all convenient speed proceed to try the case in the manner hereinafter provided; and if the suit cannot be at once adjudicated, the Collector may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is depending or until execution of the final decree which may be passed thereon, and may commit the defendant to the civil jail to be there detained until he shall furnish such security or deposit such sum as the Collector shall order. Procedure on defendant being brought before Collector.

The security-bond shall be in the form (D) contained in the schedule to this Act or to the like effect. Form of security-bond.

**52.** If the defendant cannot be arrested under the warrant, the Collector, on the application of the plaintiff, shall either postpone the case for such period as he may think proper in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation to be affixed in his own office and at the residence of the defendant, fixing a day for the hearing of the case, which shall not be less then ten days from the date of the publication of the notice at the residence of the defendant. Procedure if warrant cannot be served.

If the defendant shall appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

**53.** If it shall appear to the Collector that the arrest of the defendant was applied for without reasonable cause, the Collector may in his decree award to the defendant such sum not exceeding one hundred rupees as he may deem a reasonable compensation for any injury Compensation for arrest applied for without

reasonable cause.

or loss which the defendant may have sustained by reason of such arrest or of his detention in jail during the pendency of the suit.

Consequence of neither party appearing on day of trial.

**54.** If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case shall be struck off with liberty to the plaintiff to bring a fresh suit unless precluded by the rules for the limitation of actions.

When Collector to pass judgment by default; and when to decree upon admission. Proviso.

**55.** If on any such day the defendant only appear, the Collector shall pass judgment against the plaintiff by default unless the defendant admit the cause of action, in which case the Collector shall proceed to give judgment for the plaintiff upon such admission without costs, provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

If plaintiff only appear, Collector may proceed *ex parte*.

**56.** If on any such day the plaintiff only appear, the Collector, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

Defendant appearing at postponed hearing, may be heard in answer.

**57.** If the defendant shall appear on any subsequent day to which the hearing of the suit may be postponed under the last preceding section, the Collector may, upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

Revival, reversal and alteration of decrees *ex parte* or by default.

**58.** No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance.

But in all such cases if the party against whom judgment has been given shall appear, either in person or by agent, if a plaintiff within fifteen days from the date of the Collector's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed or at any earlier period, and shall show good and sufficient cause for his previous non-appearance and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case.

But no decree shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it.

On appearance, parties to be examined by Collector, and may cross-examine each other.

**59.** When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned for sufficient reason to be recorded by the Collector, the Collector shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other.

If either of the parties be not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

At the time of examination the defendant, if he think fit, may file a written statement of his defence.

Examination of parties, &c.

**60.** The examination of the parties or their agents or such other persons as aforesaid shall be upon oath or affirmation or otherwise according to the law for the time being in force relative to the examination of witnesses.

The substance of the examination shall be reduced to writing in the vernacular language of the Collector and filed with the record.

Witnesses to be examined.

**61.** If either of the parties shall bring forward a witness on such day, the Collector may take the evidence of such witness.

Documentary evidence to be produced by defendant.

**62.** If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and unless such document be so delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

After examination, Collector may make decree if no further evidence required.

**63.** If after the examination required by section 59 and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Collector shall make his decree accordingly.

Consequence of inability of agent to answer.

**64.** If on such examination as aforesaid, the agent of either party be unable to answer any material question relating to the case which the Collector is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Collector may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day; and if the party so directed to attend shall fail to appear in person on the day appointed, the Collector may pass judgment as in case of default or make such other order as he may deem proper in the circumstances of the case.

If necessary, Collector to record issue and to fix day for hearing further evidence.

**65.** If on such examination as aforesaid it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Collector shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place on that day unless there be sufficient reason for adjourning it, which reason shall be recorded by the Collector.

Parties to produce witnesses on day of trial; or Collector, on application, to summon witness.

**66.** The parties shall bring forward their witnesses on the day of trial, and if either party require assistance to procure the attendance of a witness on such day either to give evidence or to produce a document, he shall apply to the Collector in sufficient time before the day fixed for the trial, to enable the witness to be summoned to attend on that day; and the Collector shall issue a summons requiring such witness to attend.

Rules regarding attendance, examination, &c, of witnesses.

**67.** The provisions of the Regulations and Acts and all other rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witness and the production of documents, and for the examination, remuneration and punishment of witnesses, whether parties to the case or not, in cases before the civil Courts of the Presidency of Bengal, shall, except so far as the same may be inconsistent with the provisions of this Act, apply to and be of equal force and effect in suits under this Act.

Consequence of parties not appearing on day fixed for trial of issue.

**68.** If on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the conditions provided in section 54.

If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party upon such proof as may be then before the Court.

Suits by and against náibs, gumáshtas, &c.

**69.** When suits under this Act are instituted or defended by náibs, gumáshtas or other persons employed in the collection of rent or management of land in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such náibs, gumáshtas or other persons; and anything which by this Act

is required or permitted to be done by a party in person, may be done by any such person as aforesaid.

Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person, and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such person.

Personal attendance when not required.

**70.** A plaintiff or defendant shall not be required to attend in person if of the female sex and of a rank or class which according to the custom and manners of the country would render it improper for her to appear in public.

Employment of authorized agents or mukhtárs.

**71.** Any party to a suit may employ an authorized agent or mukhtár to conduct the case on his behalf, but the appointment of such agent or mukhtár shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court; and no fee for any agent shall be charged as part of the costs of suit in any case under this Act.

Collector may grant time or adjourn hearing.

**72.** The Collector may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit and may also from time to time, in order to the production of further proof or for other sufficient reason to be recorded by the Collector, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Collector may cause local enquiry to be made.

**73.** The Collector may at any stage of a case cause a local enquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local enquiry in person.

The provisions of the law for the time being in force relative to local enquiries by amíns or commissioners under orders of the civil Courts shall apply to any local enquiry made by any officer under this section, and, so far as they are applicable, to enquiries made by the Collector in person.

In the latter case the Collector, after completing the enquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

Defendant may pay money into court in satisfaction of demand.

**74.** The defendant in any action under this Act may pay into court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and such sum shall be paid to the plaintiff.

Liability of plaintiff if he recover no more than sum paid.

If the defendant deposit less than the sum claimed and the plaintiff elect to proceed in the case, and ultimately recover no further sum than shall have been paid into court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

No interest on deposits.

**75.** No interest shall be allowed to a plaintiff on any sum paid by the defendant into court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

Collector when to fix term for which pattá is to be granted.

**76.** If on the trial of a suit for the delivery of a pattá, instituted by a raiyat having a right of occupancy, the parties do not agree as to the term for which the pattá is to be granted, the Collector shall fix such term as under the circumstances of the case he may think just and proper :

Proviso.

Provided that the term shall not in any case be longer than ten years, and in estates not permanently settled shall not extend beyond the period for which the proprietor of the estate has engaged with Government :

Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pattá shall not extend beyond the period of the continuance of such interest.

For cultivators not having a right of occupancy, the term of pattá shall be exclusively in the discretion of the person entitled to the rent of the land.

In suits for rent, third person claiming to be made party.

**77.** When in any suit between a landholder and a raiyat or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the raiyat or under-tenant is disputed, and such right is claimed by or on behalf of a third person on the ground that such third person or a person through whom he claims has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be enquired into and the suit shall be decided according to the result of such inquiry:

Proviso.

Provided always that the decision of the Collector shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in the civil Court if instituted within one year from the date of the decision.

Suits for ejectment or cancelment of lease.

**78.** Any person desiring to eject a raiyat or to cancel a lease on account of non-payment of arrears of rent, may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrear in a suit for such ejectment or cancelment.

In all cases of suits for the ejectment of a raiyat or the cancelment of a lease, the decree shall specify the amount of the arrear, and if such amount together with interest and costs of suit to be paid into court within fifteen days from the date of the decree, execution shall be stayed.

Judgment how pronounced.

**79.** The Collector shall pronounce judgment in open court. The judgment shall be written in the vernacular language of the Collector and shall contain the reasons for the same, and shall be dated and signed by the Collector at the time when it is pronounced.

If person required by decree refuse to grant pattá, Collector may do so.

**80.** When a decree is given for the delivery of a pattá, if the person required by the decree to grant such pattá refuse or delay to grant the same, the Collector may grant a pattá in conformity with the terms of the decree under his own hand and seal, and such pattá shall be of the same force and effect as if granted by the person aforesaid.

Refusal to execute kabúliyat as required by decree.

**81.** When a decree is given for the delivery of a kabúliyat, if the person required by the decree to execute such kabúliyat shall refuse to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Collector shall be of the same force and effect as a kabúliyat executed by the said person.

Mode of executing decree for ejectment or re-instatement of raiyat.

**82.** If the decree be for the ejectment of any raiyat from land occupied by him, or for the re-instatement of any raiyat in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy.

Punishment for obstructing execution.

If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Magistrate, on the application of the Collector, shall give effect to the same.

Execution of decree for cancelment of lease or

**83.** If the decree be for the cancelment of any lease or the ejectment of any farmer or other person (not being an actual cultivator) or for the re-instatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree

ejectment or re-instate- of farmer or tenant.

shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum or in such other manner as may be customary, and affixing the same in some conspicuous place within or adjacent to the farm or tenure.

When judgement-debtor may be detained or imprisoned without issue of process of execution.

**84.** If the decree be for arrears of rent or for money, papers or accounts, and the defendant have been committed to jail or appear pursuant to the conditions of any security-bond given under section 51, the Collector may order that he be detained in or committed to the civil jail, unless he immediately pay into court the amount of the decree with costs, or otherwise comply with the terms of the decree.

Liability of surety on failure to deliver judgment-debtor into custody.

**85.** If the judgment-debtor have given security for his appearance and be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety.

If the decree be for the delivery of papers or accounts, and the defendant be not present when judgment is pronounced and the surety shall fail to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

Issue of process of execution.

**86.** Process of execution may be issued against either the person or the property of a judgment-debtor; but process shall not be issued simultaneously against both person and property.

Process of execution against the person or moveable property of a debtor shall be in the form (E) or (F) contained in the schedule to this Act or to the like effect.

Application for execution against moveable property.

**87.** Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs.

In either case the property to be seized shall be pointed out to the officer entrusted with the execution of the process by the creditor or his agent.

Duration of warrant.

**88.** Every warrant of execution shall bear date on the day on which it is signed by the Collector and shall continue in force for such period as the Collector may direct, not being more than sixty days calculated from such date.

Second and successive warrants.

**89.** Second and successive warrants of execution may be issued by order of the Collector on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

After one year execution not to issue without notice.

**90.** Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment or from the date of the last previous application for execution.

Notice of execution against representative.

**91.** Execution on a judgment shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

Execution after three years from date of judgment.

**92.** No process of execution of any description whatsoever shall be issued on a judgment under this Act after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the civil Courts.

Warrant

**93.** If a warrant issue for taking in execution the body of any person, the officer charged

with the execution of the warrant shall bring him with all convenient speed before the Collector. against person.

If such person shall not then deposit in court the full amount specified in the warrant or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Collector that he has no present means of paying the debt, the Collector shall send him to the civil jail, there to remain for such time as shall be directed by a warrant addressed to the keeper of the jail, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree:

Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed three calendar months when the amount decreed exclusive of costs does not exceed fifty rupees, or six calendar months when such amount does not exceed five hundred rupees, or two years in any other case. Limit of imprisonment.

If the decree against any person arrested under a warrant be for the delivery of papers or accounts and the papers or accounts shall not be delivered by him when he is brought before the Collector, such person may be committed to the civil jail, there to remain for such time not exceeding six calendar months as the Collector shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree. If arrest be for non-delivery of accounts.

**94.** Any person once discharged from jail shall not be imprisoned a second time under the same judgment. No second imprisonment under same judgment.

If the amount due under the decree do not exceed one hundred rupees, the Collector may declare such discharged person absolved from further liability under that decree.

In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt any property belonging to such person from attachment in execution of the same.

**95.** Any person applying for a warrant of arrest under section 49 or suing out process of execution against the body of any person, shall deposit in court, at the time of issue of the warrant, diet-money for one month of thirty days at such rate as the Collector may direct, not exceeding two annas per diem, unless the Collector for any special reason direct that deposit be made at a higher rate, which shall not exceed four annas per diem. Deposit of diet-money.

**96.** Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged. Payment of diet-money in advance during imprisonment.

**97.** All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same. Diet-money to be costs in suit.

**98.** In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor. List of property taken in execution and proclamation of sale.

A copy of the said proclamation and list shall be transmitted to the Collector and shall be affixed in his office.

**99.** No sale of any moveable property taken in execution shall be made until after the end of ten days next following the day on which such property may have been so taken. Custody and sale of moveable property taken in execution.

Until such sale the property shall be deposited in some fit place or it may remain in custody of some fit person approved by the officer executing the writ.

The provisions of sections 129 to 133, so far as the same are applicable, shall be applied to sales under this section.

Collector may stay sale of moveable property seized if third party claim interest therein.

**100.** If before the day fixed for the sale a third party appear before the Collector and claim a right or interest in any of the moveable property taken in execution, the Collector shall examine such party or his agent on oath or affirmation or otherwise, according to the law for the time being in force relative to the examination of witnesses, and if he see sufficient reason for so doing may stay the sale of such property.

Collector to adjudicate such claims.

**101.** The Collector shall adjudicate upon such claim and make such order between the claimant and the plaintiff and defendant in the original suit as shall seem fit.

In trying such claim the Collector shall be guided by the rules contained in this Act so far as they may be applicable.

Claimant failing to establish right liable to compensate judgment-creditor.

**102.** If the claimant shall fail to establish his right to the property taken in execution, the Collector at the time of disposing of the case may award to the judgment-creditor against such claimant as part of the costs such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

No appeal from order under sections 101, 102.

**103.** No appeal shall lie from any order passed by the Collector under the two last preceding sections. But the party against whom the same may be given shall be at liberty to bring a suit in the civil Court to establish his right at any time within one year from the date of the order; provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but shall be for damages against the judgment-creditor by whom the property was brought to sale.

Proviso.

Sale not vitiated by irregularity in publishing or conducting. Proviso.

**104.** No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate such sale, but this rule shall not be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the civil Court; provided such action be brought within one year from the date of sale.

Sale of transferable tenures in execution of decrees for arrears of rent.

**105.** If the decree be for an arrear of rent due in respect of an under-tenure, which by the title-deeds or the custom of the country is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and the tenure may thereupon be brought to sale in execution of the decree, according to the rules for the sale of under-tenures for the recovery of arrears of rent due in respect thereof contained in any law for the time being in force.

But no such application shall be received when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor, so long as such warrant remains in force.

If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immoveable, belonging to the debtor, and any such immoveable property may be brought to sale in the manner provided in section 110 of this Act.

If third party claim to be lawful possessor of tenure, Collector to stay sale and to enquire and adjudicate.

**106.** If before the day fixed for the sale of any such under-tenure as aforesaid in execution of a decree for arrears of rent due in respect of such under-tenure, a third party appear before the Collector, and allege that such third party and not the person against whom the decree has been obtained, is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, the Collector shall examine such party in the manner provided in section 100 for the examination of third parties, and if he see sufficient reason for so doing, and such party shall deposit in court the amount of the

decree or give sufficient security for the same, the Collector shall stay the sale and proceed to enquire into and adjudicate upon the claim :

Provided that no transfer of an under-tenure which by the provisions of this Act or any other law for the time being in force is required to be registered in the sharishtá of the zamíndár or superior tenant shall be recognized unless it have been so registered, or unless sufficient cause for non-registration be shown to the satisfaction of the Collector. Proviso.

**107.** In trying such claim the Collector shall be guided by the rules contained in this Act, so far as the same may be applicable, and the judgment passed by the Collector on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the civil Court to establish his right at any time within one year from the date of the judgment. Mode of adjudicating claims.

**108.** If a decree is given in favour of a sharer in a joint undivided estate, dependent taluq or other similar tenure, for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate or taluq or tenure, application for the sale of such under-tenure shall not be received unless execution shall have been first taken out against any moveable property which the judgment-debtor may possess within the district in which the suit was instituted and the sale of such property, if any, shall have proved insufficient to satisfy the judgment. Execution of decrees given in favour of sharers in undivided estates or tenures.

In such case such under-tenure, if of the nature described in section 105, may be brought to sale in execution of the decree in the same manner as any other immoveable property may be sold in execution of a decree for money under the provisions of the two next following sections.

**109.** In the execution of any decree for the payment of money under this Act not being money due as arrears of rent of a saleable under-tenure, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the district in which the suit was instituted, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor. Execution against immoveable property when money-decree cannot be otherwise satisfied.

**110.** If the immoveable property against which execution is applied for be a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable property, and the provisions of sections 98 and 99 shall be applicable to the execution of such process. Execution against house or building :

If the property be a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof. against saleable under-tenure.

If the property be an estate or a share of an estate, it shall be sold under the rules in force for the sale of estates for the recovery of demands recoverable by the same process as arrears of land-revenue. If it be an estate or a share of an estate.

**111.** If, before the day fixed for the sale of any immoveable property as aforesaid, objection shall be offered to the sale on the ground of such property not belonging to the judgment-debtor, and consequently not being liable to be sold in execution of a decree against him, the Collector shall examine the party making the objection in the manner prescribed in section 100 for the examination of third parties, and if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to enquire into and adjudicate upon the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in section 107. Consequence of objection offered before sale of immoveable property.

**112.** The produce of the land is held to be hypothecated for the rent payable in respect thereof : and when an arrear of rent as defined in section 20 of this Act is due from any Produce of land held hypothecated for rent.

Arrears of rent recoverable by distraint under following rules.

cultivator of land, the zamíndár, lákhirájdár, farmer, dependent taluqdár, under-farmer or other person entitled to receive rent immediately from such cultivator, instead of bringing suit for the arrear as hereinbefore provided, may recover the same by distraint and sale of the produce of the land on account of which the arrear is due under the following rules :

Cultivators who have given security exempt from distraint.

Provided always that, when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given shall not be liable to distraint :

Proviso.

Provided also that no sharer in a joint estate, dependent taluq or other tenure in which a division of lands has not been made amongst the sharers, shall exercise the power of distraint otherwise than through a manager authorized to collect the rents of the whole estate, taluq or tenure on behalf of all the sharers in the same.

Proviso.

Provided further that, in pattídárí estates situated in districts under the government of the Lieutenant-Governor of the North-Western Provinces, distraint shall be made only through a lambardár.

Distraint when barred.

**113.** Distraint shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless a written engagement for the payment of such excess has been executed by the cultivator.

Power of distraint of managers under Court of Wards, &c.

**114.** The power of distraint vested by section 112 in zamíndárs and other persons entitled to receive rent from cultivators of land, may be exercised by managers under the Court of Wards, sarbaráhkárs and tahsíldárs of estates held under khás management, and other persons lawfully entrusted with the charge of landed property ; and also by the náibs, gumáshtas and other agents employed by any such persons as aforesaid in the collection of rent if expressly authorized by power-of-attorney in that behalf :

Proviso.

Provided that, if any illegal act is committed by any such náib, gumáshta or other agent under colour of the exercise of the said power, the person employing such agent shall be liable, as well as the agent, for any damages accruing by reason of such act.

Standing crops and crops gathered but not stored liable to distraint.

**115.** Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered, and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with the powers of distraint under the provisions of this Act.

But no such crops or products other than the produce of the land in respect of which an arrear of rent is due or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distraint under this Act.

Defaulter to be served with written demand, &c., before or at time of distraint.

**116.** Before or at the time when distraint is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

The demand and account shall, if practicable, be served personally on the defaulter, or if he abscond or conceal himself so that they cannot be so served, shall be affixed at his usual place of residence.

Distress proportionate to arrear.

List of property served on owner.

**117.** Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value proportionate to the amount of the arrear with costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or if he be absent affix it at his usual place of residence.

**118.** Standing crops and other ungathered products may, notwithstanding the distraint, be reaped and gathered by the cultivator, and may be stored in such granaries or other places as are commonly used by him for the purpose.

Standing crops, &c, when attached, to be reaped and stored by cultivator, or, if he neglect to do so, by distrainer.

If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose.

Crops or products which from their nature do not admit of being stored, may be sold before they are cut or gathered, under the rules hereinafter provided; but in such case the distraint shall be made at least twenty days before the time when the crops or products or any part of the same would be fit for cutting or gathering.

**119.** If a distrainer shall be opposed or shall apprehend resistance, and shall desire to obtain the assistance of a public officer, he may apply to the Collector, and the Collector may, if he thinks necessary, depute an officer to support the distrainer in making the distraint.

Distrainer may apply for aid to Collector in case of resistance.

**120.** When any person empowered to distrain property under section 112 or section 114 shall employ a servant or other person to make the distress, he shall give to such servant or person a written authority for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

Servants employed to distrain to be furnished with written authority.

**121.** If at any time after property has been distrained, and prior to the day fixed for its being put up to sale as hereinafter provided, the owner of the property shall tender payment of the arrear demanded of him and of the expenses of the distress, the distrainer shall receive the same and shall forthwith withdraw the distress.

Distress withdrawn if defaulter tender payment of arrear and expenses prior to sale.

**122.** Within five days from the time of the storing of any distrained crops or products, or if the crops or products do not, from their nature, admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the civil Court amín or other officer authorized to sell property in satisfaction of decrees of the civil Court within the circle in which the distrained property is situate, or to such other public officer as the Local Government shall appoint for the purpose.

Application for sale.

**123.** The application shall be in writing and shall contain an inventory or description of the property distrained, the name of the defaulter and his place of residence, the amount due and the date of the distress, and the place in which the distrained property is deposited.

Form of application.

Together with the application, the distrainer shall deliver to the civil Court amín or other officer the amount necessary for the service of a notice upon the defaulter as hereinafter provided.

Deposit of cost of notice to defaulter.

**124.** Immediately on receipt of the application the civil Court amín or other officer shall transmit a copy of it to the Collector; and shall serve a notice (which shall be in the form (G) contained in the schedule to this Act or to the like effect) on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector within the period of fifteen days from the receipt of the notice.

Procedure of amín, on receipt of application.

He shall at the same time send to the Collector for the purpose of being put up in his office, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy of the

proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain a description of the property, the demand for which it is to be sold and the place where the sale is to be held.

Amín to suspend sale on receipt of Collector's certificate of institution of suit.

**125.** If a suit shall be instituted before the Collector in pursuance of the aforesaid notice, the Collector shall transmit to the civil Court amín or other officer, or if so requested shall deliver to the owner of the distrained property, a certificate of the institution of such suit; and on such certificate being received by or presented to the amín or other officer, he shall suspend proceedings in regard to the sale of the distrained property.

Suit to contest distrainer's demand before notice of sale.

**126.** A person whose property has been distrained in the manner hereinbefore provided, may institute a suit to contest the demand of the distrainer immediately after the distraint of his property, and before the issue of notice of sale.

When such suit is instituted, the Collecter shall proceed in the manner prescribed in the last preceding section.

If thereafter application for the sale of the property is made to the civil Court amín or other officer, he shall transmit a copy of the application to the Collector, and suspend further proceedings pending the decision of the case.

Distress withdrawn on receipt of Collector's certificate of execution of bond to pay amount due.

**127.** The person whose property has been distrained may, at the time of instituting any such suit as aforesaid or at any subsequent period, execute a bond with security binding himself to pay whatever sum may be adjudged to be due from him with interest and costs of suit, and when such bond is executed, the Collector shall give to the owner of the property a certificate to that effect, or if so requested shall serve the distrainer with notice of the same; and upon such certificate being presented to the distrainer by the owner of the property or served on him by order of the Collector, the property shall be released from distraint.

On expiration of period fixed in proclamation of sale, if institution of suit to contest demand not certified, sale may proceed.

**128.** On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the civil Court amín or other officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as shall be allowed by him, be discharged in full, proceed to sell the property or such part of it as may be necessary in the manner following.

Place and manner of sale of distrained property.

**129.** The sale shall be held at the place where the distrained property is deposited, or at the nearest ganj, bázár, hát or other place of public resort, if the civil Court amín or other officer should be of opinion that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as the officer holding the sale may think advisable; and if the demand with the costs of distress and sale be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

If fair price not offered, sale may be postponed, and shall be then completed whatever price offered.

**130.** If on the property being put up for sale a fair price in the estimation of the officer holding the sale be not offered for it, and the owner of the property or some person authorized to act on his behalf apply to have the sale postponed until the next day, or the next market-day if a market be held at the place of sale, the sale shall be postponed until such day and shall be then completed at whatever price may be offered for the property,

Payment of purchase-money.

**131.** The price of every lot shall be paid for in ready money at the time of sale or as soon after as the officer holding the sale shall think necessary; and in default of such payment the property shall be put up again and sold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

**132.** From the proceeds of the sale of distrained property the officer holding the sale shall make a deduction at the rate of one anna in the rupee on account of the costs of the sale, and shall transmit the amount to the Collector in order that it may be credited to Government.

Disposal of proceeds of sale.

He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 124 to such amount as, after examination of the statement of expenses furnished by the distrainer, he shall think proper to allow.

The remainder shall be applied to the discharge of the arrear for which the distraint was made, with interest thereon up to the day of sale, and if there be any overplus, it shall be delivered to the person whose property shall have been sold.

**133.** Officers holding sales of property under this Act and all persons employed by or subordinate to such officers are prohibited from purchasing either directly or indirectly any property sold by such officers.

Officers holding sales prohibited from purchasing.

**134.** Civil Court amíns and other officers as aforesaid are required to bring to the notice of Collectors any material irregularities committed by distrainers under colour of this Act; and if in any case, on proceeding to hold a sale of property, the civil Court amín or other officer shall find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Collector, and the Collector shall direct the issue of another notice and proclamation of sale under section 124 or pass such other order as he may think proper.

Irregularities to be reported to Collector.

Officer not to sell, if he find that defaulter has not received notice.

**135.** When a civil Court amín or other officer has proceeded to any place for the purpose of holding a sale and no sale takes place either for the reason stated in the last preceding section or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to the civil Court amín or other officer, the charge of one anna in the rupee on account of expenses shall be leviable and shall be calculated on the estimated value of the distrained property.

Recovery of expenses if amín proceeds to place of sale and no sale takes place.

If the demand of the distrainer be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property and may be recovered by the sale of such portion thereof as may be necessary.

In every other case it shall be paid by the distrainer and may be recovered by attachment and sale of the property of the distrainer under the warrant of the Collector :

Provided always that in no case shall a larger amount than ten rupees be recoverable under this section.

**136.** All proceedings under this Act of the civil Court amíns and other officers as aforesaid shall be subject to the revision and orders of the Collectors, and the Collectors, with the sanction of the Boards of Revenue, may require the submission of such periodical reports and statements of business performed by the civil Court amíns and other officers as may be thought necessary.

Proceedings of amíns, &c subject to revision and orders of Collectors.

**137.** When a suit has been instituted to contest the demand of a distrainer and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Collector shall issue an order to the civil Court amín or other officer authorizing the sale of the property, and on the application of the distrainer, which shall be made

Second proclamation of sale.

within five days from the receipt of such order by the civil Court amín or other officer, such amín or officer shall publish a second proclamation in the manner prescribed in section 124, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation; and unless the amount adjudged to be due with the costs of distress be paid intermediately, shall proceed to sell the property in the manner hereinbefore provided.

Procedure after institution of suit to contest demand.

**138.** In all suits instituted to contest the demand of a distrainer, the distrainer shall be required to prove the arrear in the same manner as if he had himself brought suit for the amount under the foregoing provisions of this Act.

If the demand or any part thereof is found to be due, the Collector shall make a decree for the amount in favour of the distrainer, and the amount may be recovered by sale of the property as provided in the last preceding section if the distress has not been withdrawn, and if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter, or if the property have been released on security, by execution of the decree against the person and property of the defaulter and of his surety.

If, on the other hand, the distraint is adjudged to be vexatious or groundless, the Collector, besides directing the release of the distrained property, may award such damages in favour of the plaintiff as the circumstances of the case shall seem to require.

Owner of property distrained for arrears alleged to be due from another, may institute suit against distrainer, &c.

**139.** If any person shall claim, as his own, property which has been distrained for arrears or rent alleged to be due from any other person, such person may institute a suit against the distrainer and such other person to try the right to the property in the same manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

When any such suit is instituted, the property may be released upon security being given for the value of the same.

If the claim is dismissed, the Collector shall make an order for the sale of the property or the recovery of the value thereof, as the case may be, for the benefit of the distrainer.

If the claim is upheld, the Collector shall decree the release of the distrained property with costs, and such damages (if any) as the circumstances of the case may seem to require:

Provided always that no claim to any produce of land liable to distraint under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, whether such claim be in respect of a previous sale, mortgage or otherwise, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgement of any civil Court prevail against such prior claim.

Procedure if right to distrain be disputed.

**140.** If, in any case in which property has been distrained for an arrear of rent and a suit has been instituted to contest the demand, the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such other person before and up to the time of the commencement of the suit shall be enquired into, and the suit shall be decided according to the result of such enquiry:

Provided always that the decision of the Collector shall not affect the right of either party who may have a legal title to the rent of the land, to establish his title by suit in the civil Court if instituted within one year from the date of the decision.

Persons prevented from suing in time to save property from sale, may sue for damages.

**141.** If any person whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing suit to contest the demand, or to try the right to the property, as the case may be, within the period allowed by sections 124 and 139, and his property is in consequence brought to sale, he may nevertheless institute a suit under this Act to recover damages for the illegal distress and sale of his property.

Also persons aggrieved by illegal act of distrainer.

**142.** If any person empowered to distrain property or employed for the purpose under a written authority by a person so empowered, shall distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act, or if any distrained property shall be lost, damaged or destroyed by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act to recover damages for any injury which he may have thereby sustained.

Unlawful distraint.

**143.** If any person not empowered to distrain property under sections 112 and 114 of this Act, nor employed for the purpose under a written authority by a person so empowered, shall distrain or sell or cause to be sold any property under colour of this Act, the owner of the property may institute a suit under this Act to recover damages from such person for any injury which he may have sustained from the distraint or sale.

The said person shall be held to have committed criminal trespass, and shall be subject to the penalties for that offence in addition to any damages which may be awarded against him in such suit:

Time for commencing suits for damages.

**144.** Provided always that any suit which may be instituted under any of the last three sections shall be commenced within three months from the date of the occurrence of the cause of action.

Resistance of distraint.

**145.** If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrained property, the Collector, upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person accused to be arrested, and if the offence be proved and the offender be the owner of the property, shall order him to be imprisoned in the civil jail for six months, or until the whole arrear due to the distrainer with all expenses and costs shall sooner be paid or levied by distress and sale of the property of the offender under warrant of the Collector.

If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred rupees, or, in default of payment thereof, to imprisonment for a period not exceeding two months.

Service of process.

**146.** Every process issued by a Collector under this Act shall be under the seal and signature of the Collector, and shall be served or executed by the názir or by such other officer as the Collector may direct at the cost of the party at whose instance it issued.

The amount of such cost, and, in the case of summons to a witness, any sum required for the travelling expenses of such witness, shall be deposited in Court before the process is issued:

Provided that, if in any case the Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

Resistance of process.

**147.** Any resistance or opposition to the lawful process of a Collector under this Act may

be punished by the Collector according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of civil justice.

When in any such case the offender is not present in Court, the Collector may summon him to answer to the charge, and if after due service of the summons he fail to attend, may issue a warrant for his apprehension.

Orders passed by Collectors under this section shall not be deemed to be orders relating to the trial of suits or to the execution of decrees within the meaning of section 151.

Place of holding Court.

**148.** It shall be competent to the Collector to hold a Court for hearing and determining suits under this Act in any place within the limits of his district or local jurisdiction; provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place.

Proviso.

Agents or mukhtárs.

**149.** Any person may practise as an agent or mukhtár in a Court held by a Collector under this Act without any formal license from the Collector.

But it shall be competent to the Collector to prohibit any person, who has been convicted by a competent Court of a criminal offence, or who has been found guilty of fraudulent or dishonest conduct in the discharge of his duty as agent or mukhtár, to practise as an agent or mukhtár in his Court.

When any agent or mukhtár is charged by the Collector or any other person with fraudulent or dishonest conduct in the discharge of his duty, the Collector shall proceed in the manner prescribed in section 4, Act XVIII of 1852, or any other law for the time being in force for the trial of charges against pleaders.

Powers of Deputy Collectors.

**150.** All the powers vested in the Collector by the preceding sections of this Act may be exercised by any Deputy Collector in cases referred to him by a Collector, and in all cases without such reference, by any Deputy Collector placed in charge of any sub-division of a district; and all applications and reports allowed or required by this Act to be made to the Collector may be made to any Deputy Collector having such local jurisdiction.

Control of Collectors and Deputy Collectors.

**151.** In the performance of their duties under this Act the Collectors and Deputy Collectors shall be subject to the general direction and control of the Commissioners and the Boards of Revenue; and the Deputy Collectors shall be subject to the direction and control of the Collectors to whom they are subordinate.

No appeal from orders of Collectors and Deputy Collectors in certain cases.

All orders passed by a Collector under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof, or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner; and all such orders passed by a Deputy Collector shall be appealable to the Collector; but no judgment of a Collector or Deputy Collector in any suit, and no order of a Collector or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

Time for presenting appeals from orders.

**152.** Every appeal against the order of a Collector shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Collector within fifteen days, from the date of the order.

Orders passed in appeal by a Commissioner or a Collector shall not be open to any further appeal, but the Board of Revenue or the Commissioner may call for any case and pass such orders thereon as they may think proper.

When appeal

**153.** In suits under clauses 2, 4 and 7 of section 23 and under section 24 of this Act,

tried and decided by a Collector, if the amount sued for or the value of the property claimed does not exceed one hundred rupees, the judgment of the Collector shall be final and not open to revision or appeal except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a raiyat or tenant, or any question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in sections 160 and 161 of this Act.

allowed from judgment of Collector for money below 100 rupees.

**154.** In suits in which the judgment of the Collector is final as provided in the last preceding section, the Collector may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of, or could not produce, at the time of trial.

Re-hearing in suits not open to appeal.

**155.** When any such suit as aforesaid, in which if tried and decided by a Collector the judgment of the Collector would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Collector.

Appeal from decision of Deputy Collector.

**156.** The petition of appeal shall be written and shall be presented to the Collector within fifteen days from the date of the decree, provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

Petition of appeal.

**157.** The Collector shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent in the manner hereinbefore prescribed for the service of summons.

Procedure in appeal.

If, on the day fixed for hearing the appeal or any other day to which the hearing may be adjourned, the appellant shall not appear in person or by an agent, the appeal shall be dismissed for default.

If the appellant shall appear and the respondent shall not appear in person or by an agent, the appeal shall be heard *ex parte*.

**158.** If an appeal be dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Collector for the re-admission of the appeal, and if it shall be proved to the satisfaction of the Collector that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector may re-admit the appeal.

Re-admission of appeal.

**159.** After hearing the appeal the Collector shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Collector shall be final.

Judgment in appeal.

**160.** In all suits other than those in which, when tried and decided by a Collector the judgment of the Collector is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Collector, an appeal from the judgment of the Collector or Deputy Collector shall lie to the Zila Judge; unless the amount or value in dispute exceed five thousand rupees, in which case the appeal shall lie to the Sadr Court.

In what suits appeal to lie to Zila Judge: to Sadr Court.

**161.** The petition of appeal shall be written; and the rules in force in regard to the time within which appeals from the decisions of such Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the Zila Judge or Sadr Court under this Act.

Presentation and hearing of appeals.

**162.** Suits under this Act shall be preferred in the Revenue-office of the district, or when a sub-division of a district has been placed under the jurisdiction of a Deputy Collector, in the Revenue-office of the sub-division in which the cause of action shall have arisen:

Suits preferred in Revenue-office of district or

sub division in which greater part of lands situate.

Provided always that the Collector may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector.

If the lands comprised in any taluq, farm or other tenure, or any lands held under one lease or engagement or at one entire rent in respect of which arrears of rent may be due, are situated in more than one district or sub-division, the district or sub-divison in which the greater part of such lands is situate shall be held to be the district or sub-division in which the cause of action has arisen; and if any question shall be raised respecting the district or sub-division in which the greater part of the lands is situate, the Board of Revenue, or if all the lands be situate in one district the Collector of the district, shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

No jurisdiction in Collector as to lands beyond district.

**163.** Except as provided in the last preceding section, no Collector shall exercise any jurisdiction under this Act in respect to any lands situate beyond the limits of the district to which he is appointed, by reason of such lands forming part of an estate the revenue of which is paid into the treasury of the said district.

Deputy Collector when not to exercise judicial powers.

**164.** No Deputy Collector appointed under Regulation IX, 1833[a] of the Bengal Code shall exercise any judicial powers or other jurisdiction under this Act if entrusted with any Police-functions.

Powers to be exercised by Assistants to Collectors.

**165.** Assistants to Collectors shall not exercise any powers under this Act unless invested by Government with the powers of Deputy Collectors, in which case they may exercise the powers hereby assigned to Deputy Collectors.

Saving of rights of proprietors as to tenures under Regulation VIII, 1819.

**166.** Nothing contained in this Act shall be held to affect the right vested in proprietors of land under direct engagements with Government, of bringing to sale for arrears of rent patní taluqs and other similar tenures under the provisions of Regulation VIII. 1819.[b]

**167.**—[*Repealed by Act No. XIV of 1870.*]

"Civil Jail."

**168.** The words "Civil Jail" as used in this Act shall include the civil jail of the zila and any place appointed by the Executive Government for the confinement of prisoners by any Court constituted under this Act:

"Názir."

The word "Názir" shall include any officer of a Court authorized to serve or execute its process:

Number.

Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and words importing the masculine

Gender.

gender shall include females.

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## SCHEDULE.

### FORM A (*see section 44*).

### Form of Summons to Defendant.

No. (*of suit*) dated

In the Court of

*A B*, Plaintiff.

[*Name, description and address of plaintiff.*]

*C D*, Defendant.

[*Name, description and address of defendant.*]

Whereas the said *A B* has brought a claim against you in this Court for [*here specify*

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a, b See Lower Provinces Code, vol. I.

*particulars of claim as given in the statement*], you are hereby required to appear in person in this Court on the day of [*if not specially required to appear in person, state,* "in person or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge"] to answer the above-named plaintiff, and you will bring with you (*or* send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

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FORM B (*see section 49*).

FORM OF WARRANT OF ARREST.

No. (*of suit*) dated

In the Court of

*A B*, Plaintiff.

*C D*, Defendant.

To the Názir of the Court of the Collector of

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 18 .

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FORM C (*see section 49*).

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

*A B*, Plaintiff.

[*Name, description and address of plaintiff.*]

*C D*, Defendant.

[*Name, description and address of defendant.*]

Whereas the said *A B* has brought a claim against you in this Court for [*here specify particulars of claim as given in the statement*] and has obtained a warrant for your arrest you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

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FORM D (*see section 51*).

FORM OF SECURITY-BOND FOR APPEARANCE OF DEFENDANT.

Whereas *A B*, plaintiff, has instituted a suit in the Court of the Collector of against *C D*, defendant, and the said *C D* has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, I, *E F*, hereby declare myself surety for the said *C D*'s appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment

of the North-Western-Provinces, and shall not come into force in any place to which this Act shall be extended as hereinafter provided, and the following sections are enacted in lieu thereof:—

Procedure in institution of suits.

"*Section 34.*—Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim, which shall contain—

the name, description, and place of abode of the plaintiff;

the name, description, and place of abode of the defendant, so far as they can be ascertained;

the substance and value of the claim estimated according to any law for the time being in force for the valuation of suits; and

the date of the cause of action.

Issue of process of execution.

"*Section 86.*—Process of execution may be issued against either the person or the property of a judgment-debtor, but process shall not be issued simultaneously against both person and property.

"Such process may be issued on the oral application of the judgment-creditor, his agent, of mukhtár, made at the time the decree is passed, or thereafter upon the written application or the judgment-creditor, his agent, or mukhtár.

"Process of execution against the person or moveable property of a debtor shall be in form E or F contained in the schedule to the said Act X of 1859, or to the like effect."

Provisions of Civil Procedure Code applied.

6. The provisions of sections 243 and 244 of the Code of Civil Procedure shall be applicable to decrees passed in suits under the said Act X of 1859, or this Act, in which the Collector shall award a sum of money on account either of an arrear of Government revenue or of profits, or otherwise.

Revision and appeal.

Orders passed by a Collector under either of the said sections shall be subject to revision by the Commissioner of the division, and the Sadr Board of Revenue, but shall not be open to appeal to the civil Court.

Addition to section 112 of Act X of 1859.

7. Section 112 of the said Act X of 1859 shall be read as if the words "or, where the rent of a pattí is not collected by a lambardár, through the pattídár who is entitled to collect the rent" were added at the end of such section.

Local Government may invest Settlement-officers with certain powers.

8. The Local Government may invest any officer employed in making or revising settlements of the land-revenue, with the powers of a Collector as described in the said Act X of 1859, for the decision of suits arising within the local limits of the jurisdiction assigned to such officer, of the nature mentioned in section 23 of the said Act, or in this Act, while such officer is so employed.

Matters cognizable by such Settlement-officers.

9. In the exercise of the powers given under the last preceding section, the officer so invested shall have power to determine all disputes existing between zamíndárs, taluqdárs, or other sadr málguzárs, or farmers of land, or any person duly authorized on their behalf, and any dependent zamíndár, raiyat, or other under-tenant of whatever denomination, regarding the rates of rent payable by such dependent zamíndár, under-tenant, raiyat, or other tenant.

Rule as to suits for enhancement of rent.

10. If a suit for enhancement of rent be brought before any officer empowered under section 8 of this Act to hear the same, such suit shall be heard and determined by such officer notwithstanding that no notice of enhancement shall have been served under section 13 of the said Act X of 1859 on the party from whom such enhanced rent is claimed.

In such case the statement of claim shall set forth the grounds on which such enhancement of rent is claimed.

If a decree be passed in favour of the claimant, such decree shall have effect only from the commencement of the next agricultural year after the date of the decree.

**11.** Whenever a claim to enhancement or abatement of rent against or by any number of raiyats is brought before an officer engaged in making or revising settlements, and empowered under section 8 of this Act to hear such claim, such raiyats may be sued or may sue collectively, and it shall be no ground for dismissing or refusing to hear the claim that such raiyats are wrongly joined as plaintiffs or defendants, provided all such raiyats cultivate in the same estate, but no decree shall be passed in any such case in which an enhancement of rent is claimed, unless such officer as aforesaid shall be satisfied that every raiyat has had an opportunity to appear and make objection to the claim preferred against him.

Provision for suits by or against raiyats collectively.

Provided also that every decree passed in any such case shall specify the extent to which each of the raiyats named in the decree shall be affected thereby.

**12.** All decisions passed under the foregoing sections by an officer engaged in making or revising settlements, and invested as above, shall be open to the same appeal as is given by the said Act X of 1859 in respect to decisions passed by a Collector in suits of the same description.

Decisions liable to appeal.

Provided that no decree passed in any such suit by an officer engaged in making or revising settlements before the passing of this Act, shall be open to question solely on the ground of want of jurisdiction in the officer who passed such decree, or of any error, defect, or irregularity in procedure not productive of injury to either party, but an appeal shall lie against such decree in like manner as if the suit had been decided under this Act.

Proviso as to former decisions.

**13.** In all cases in which rents have heretofore been paid in kind, or by the estimated value of a portion of the crop, it shall be lawful for an officer employed in making or revising the settlement of the land-revenue, on the application either of the payer or the receiver of the rent, to commute such rent into a fixed money-payment.

Commutation of rents in kind to fixed money-payments.

The rate or amount of rent thus fixed shall be binding upon the parties concerned, subject to the provisions of the said Act X of 1859.

All decisions already passed by any such officer, commuting rents in kind, or by valuation, to fixed rents in money, shall, subject to the same appeal as is given by the said Act X of 1859 in respect to decisions passed by a Collector in suits under the said Act, be legal and binding.

**14.** The provisions of chapter VI (relative to Arbitration) of the Code of Civil Procedure shall apply to suits under the said Act X of 1859, and under this Act.

Provisions of Civil Procedure Code applied.

**15.**—[*Repealed by Act No. VIII of 1873.*]

**16.** If any person shall be arrested under section 145 of the said Act X of 1859, he shall be brought before the Collector with all convenient speed, and the Collector shall proceed forthwith to try the case.

Rule as to person arrested under section 145 of Act X of 1859.

If the case cannot be at once heard and determined, the Collector may, if he think fit, require the party arrested to give security for his person whenever the same may be required.

In default of such security, the party arrested may be committed to the civil jail until the case is tried.

**17.** Doubts having been entertained as to whether the decisions passed by a zila Judge in regular appeal under the said Act X of 1859, are open to special appeal, it is hereby declared that it was the intention of the said Act that such decisions should be open to special appeal to the sadr Court in the same manner, and subject to the same rules, as the decisions of zila Judges passed in regular appeal are open to special appeal under the Code of Civil Procedure.

Special appeal from decisions of zila Judge under Act X of 1859.

**18.** This Act shall be read and taken, in the territories under the government of the

Construction of Act.

Lieutenant-Governor of the North-Western Provinces, and in all places to which this Act shall be extended under the next following section, as part of the said Act X of 1859.

Power to extend Act.

19. It shall be lawful for the Governor General of India in Council to extend the provisions of Act X of 1859 as amended by this Act to any territories immediately administered by the Government of India, or for the Lieutenant-Governor of the North-Western Provinces, and of the Panjáb, respectively, to extend the said Act amended as above to any part of the territories under their respective Governments, in which the said Act X of 1859 is not now in force.

Whenever the said Act amended as above shall be so extended, the Governor General of India in Council, or the Lieutenant-Governor, who shall so extend the same, shall declare by what officers in the said territories or any parts thereof, to which the said Act X of 1859 amended as above shall be extended, the powers given by the said Act shall be exercised, and such officers shall thereupon be authorized to exercise such powers.

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## Act No. XXII of 1872.

*Received the Governor General's assent on the 13th of September, 1872.*

## An Act to explain and amend Act No. X of 1859.[a]

Preamble.

Whereas it has been the practice for the Local Government or the Collectors of districts to invest persons not being Deputy Collectors with all or some of the powers of Deputy Collectors for the purposes of Acts No. X of 1859 and No. XIV of 1863:

And whereas it has been the practice for all or some of the Deputy Collectors and of the persons invested as aforesaid to exercise the powers of Deputy Collectors in charge of sub-divisions of districts or of Assistants to Collectors invested by Government with the powers of Deputy Collectors:

And whereas many suits have been preferred and applications made to, and orders made and acts done by, such Deputy Collectors and other persons in the exercise of such powers:

And whereas doubts have been raised as to the legality of such practices and as to the jurisdiction to entertain such suits and applications and to make and do such orders and acts;

For the purpose of precluding such doubts; It is hereby enacted as follows:—

Persons invested with certain powers deemed Deputy Collectors in charge of sub-divisions of districts.

1. All Deputy Collectors and all persons heretofore or hereafter so invested with powers shall be deemed to have been, or to be (as the case may be) Deputy Collectors in charge of sub-divisions of districts within the meaning of the said Acts No. X of 1859 and No. XIV of 1863, or Assistants to Collectors invested with the powers of Deputy Collectors in such charge.

Certain suits deemed to have been duly preferred.

2. All such suits shall be deemed to have been and to be as duly preferred, and all such applications, orders and acts shall be deemed to have been and to be as duly made and done as if the said Deputy Collectors and other persons had been Deputy Collectors in charge of sub-divisions of districts within the meaning of the said Acts No X of 1859 and No. XIV of 1863.

And no order or act heretofore or hereafter made or done as aforesaid by any such person shall be held invalid merely because the suit in which such order was made or act done has

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a Repealed locally by Act No. XVIII of 1873.

not been preferred in the place prescribed by the said Act No. X of 1859, section one hundred and sixty-two.

**3.** The Local Government, or any officers empowered by the Local Government on this behalf, may, from time to time, by order define and adjust the local areas over which the persons exercising the powers of Deputy Collectors in charge of sub-divisions of districts shall exercise their jurisdiction.

Power to define areas over which persons exercising powers of Deputy Collectors in charge of sub-divisions shall exercise jurisdiction.

Such local areas shall be deemed to be sub-divisions of districts within the meaning of the said Act No. X of 1859.

**4.** In this Act and Acts Nos. X of 1859 and XIV of 1863, "Collector" includes also a Deputy Commissioner and every person in the chief revenue charge of any district.

Interpretation of "Collector."

**5.** This Act may be called "The Act X of 1859 Amendment Act, 1872":

Short title.

It extends only to the territories respectively under the government of the Lieutenant-Governor of the North-Western Provinces and under the administration of the Chief Commissioner of the Central Provinces;

Local extent.

And it shall come into force on the passing thereof.

Commencement.

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